

**SCHOOLS HAZARDOUS WASTE COLLECTION, CONSOLIDATION, AND  
ACCUMULATION FACILITY (SHWCCAF)  
PERMIT-BY-RULE (PBR) AUTHORIZATION (R-00-09)**

**INITIAL STATEMENT OF REASONS**

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SUMMARY

## **PROBLEM, REQUIREMENT, OR OTHER CONDITION ADDRESSED**

Individual schools throughout the state generate hazardous waste as a normal part of the operation and maintenance of each school. Prior to transport to a disposal facility, these wastes are usually stored on the school campus in close proximity to the students. However, K - 12 schools are generally not equipped or designed to store the hazardous wastes they generate and storage space that may have been previously available at school sites is now often needed for teaching purposes. In addition, there is growing concern about the existing and potential risks associated with storage of hazardous wastes at schools due to the potential for student exposure to those wastes. Since school districts also generate and manage hazardous wastes as a part of district operations they usually have hazardous waste storage areas and trained personnel at their corporation yards. Consequently, some school districts would like to accumulate and temporarily store the hazardous wastes generated from several schools at a separate, non-schoolyard location, such as a corporation yard owned by the school district. Offsite collection, accumulation, and storage would allow school districts to reduce the volumes of hazardous wastes stored at individual schools, thereby reducing the risk of exposure to students from those hazardous wastes. Offsite accumulation and storage of hazardous wastes from multiple schoolsites would also allow for environmental and economic efficiencies by reducing the number and size of hazardous waste storage areas and by reducing the number of small shipments of hazardous waste to recycling or disposal facilities.

In California, offsite storage of hazardous waste is a regulated activity that requires authorization under the Department of Toxic Substances Control's (referred to here as DTSC) five-tiered program for hazardous waste treatment or storage. The highest or most rigorous tier, known as the "Full Permit," addresses federal Resource Conservation and Recovery Act (RCRA) hazardous waste transfer, storage, or disposal facilities. The four lower permit tiers address wastes that are either non-RCRA, or not subject to the RCRA permitting requirements. The lower permit or authorization tiers include, in order of decreasing requirements, the "Standardized Permit," "Permit by Rule" (PBR), "Conditional Authorization" (CA), and "Conditionally Exempt" (CE). The Standardized Permit is similar to the Full Permit and addresses onsite or offsite treatment, storage, and disposal of non-RCRA wastes or wastes not subject to RCRA permitting requirements. PBR, CA, and CE generally address onsite treatment of hazardous waste. However, PBR is also used to authorize offsite collection and storage facilities accepting household hazardous waste and federal Conditionally Exempt Small Quantity Generator (CESQG) hazardous waste.

Currently, the only tiered permitting authorization option available for offsite collection and storage of hazardous wastes by K - 12 school districts is the Standardized Permit. However, the Standardized Permit requirements are generally intended to address high-risk hazardous waste management activities, such as those commonly found at big, commercial facilities that manage (treat, store or dispose) large volumes of hazardous wastes. Because of the high-risk management activities being considered, a detailed review of the facility's proposed operation is conducted prior to issuance of the permit.

Aside from the five tiered permitting categories, the only other facility authorization option is to request a variance from DTSC for hazardous waste management activities that do not fit any of the existing authorization mechanisms. A variance would allow the activity to be temporarily conducted subject to requirements other than those normally imposed. However, variances are not automatic and are intended for time-limited situations where the impacts of the hazardous waste management activity are determined to not cause human health and safety or environmental harm. As with the Standardized Permit, the variance determination process requires extensive pre-review and a determination under the California Environmental Quality Act (CEQA). While offsite consolidation of K - 12 school hazardous wastes could be authorized by a variance to the Standardized Permit requirements, a time-limited variance would not be a useful mechanism for on-going, routine waste management activities.

While the amount and specific types of hazardous waste generated at each school will vary according to the size and curriculum of school, the types of waste generated by the routine operation and maintenance of K - 12 schools is very similar to the types and amounts of wastes collected at household hazardous waste collection facilities that accept CESQG wastes currently authorized under PBR. Typical wastes generated by the routine operation and maintenance of K - 12 schools include:

- < Electronic equipment (i.e., computer monitors, etc.), batteries, and copier or printer toners from school daily operation and administration;
- < Chemical and biological hazardous wastes from chemistry and science labs;
- < Used oil, antifreeze, solvents, degreasers, and auto batteries from auto repair shops and classrooms or compressors;
- < PCB-containing light ballasts<sup>1</sup>, asbestos-containing wastes (from building insulation), and lead-based paint wastes from school repairs and construction; and
- < Pesticides, cleaning solvents, detergents, and oil-based or latex paint wastes from school maintenance and housekeeping or janitorial functions.

As with household hazardous and CESQG wastes, hazardous wastes generated by K - 12 schools do pose exposure hazards and therefore should be carefully managed and stored away from sensitive receptors like children. However, the waste management risks associated with K - 12 school wastes are more on par with household hazardous and CESQG wastes than with the risks associated with the larger volumes of hazardous wastes and higher risk activities managed under Standardized Permit requirements. Allowing school districts to operate offsite K - 12 schools hazardous waste collection facilities under PBR would provide an offsite collection and storage option to authorization

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<sup>1</sup> PCB ballasts pose no greater risk than other types of hazardous waste generated at schools.

under a Standardized Permit, as well as to onsite management of the wastes at each individual school, that is appropriate to the level of risk posed by the wastes and protective of human health and the environment.

## **SUMMARY OF EXISTING STATUTES AND REGULATIONS**

Brief summary descriptions of the existing federal RCRA and California requirements applicable to onsite and offsite accumulation and transportation of hazardous waste are provided below.

### Federal RCRA Requirements

#### *Generators*

Generators of hazardous waste are categorized and regulated under RCRA according to the types and volumes of hazardous waste generated per month. The three categories of RCRA hazardous waste generators are Large Quantity Generators [generating greater than 1,000 kilograms per month (kg/month)], Small Quantity Generators (generating more than 100 kg/month but not more than 1,000 kg/month), and CESQGs (generating no more than 100 kg/month). Large Quantity Generators are limited to a 90 day storage period with no limit on the amount of waste accumulated, whereas Small Quantity Generators are allowed to store waste 180 days (or 270 days if waste must be shipped over 200 miles) but are limited to an accumulation maximum of 6,000 kg. CESQGs have no storage time limit but they cannot exceed a total of 1,000 kg of accumulated waste at any one time.

In addition to the monthly waste generation and accumulation limits, hazardous waste generators must obtain an EPA Identification (ID) Number, use manifests for transport of the waste, and properly package and label wastes stored and transported from the site. Requirements for containers, emergency response, contingency plans, personnel training, recordkeeping, closure, and land disposal restrictions may also apply depending on the generator category. However, under RCRA, CESQGs (and CESQG wastes) are exempt from RCRA generator, transportation, and facility permitting requirements as long as they do not exceed the monthly waste generation or total accumulation limits.

#### *Offsite Transfer, Storage, and Disposal Facilities*

Under federal law, offsite facilities receiving RCRA hazardous waste must obtain a transfer, storage, or disposal permit and ship wastes using a hazardous waste manifest. The permit requirements are rigorous and include standards for waste management unit operation (such as tanks and containers), emergency response, personnel training and recordkeeping. These requirements do not apply to facilities receiving non-RCRA hazardous wastes or RCRA wastes not subject to certain RCRA management or permitting requirements (such as CESQG wastes).

### California Hazardous Waste Requirements

In general, California hazardous waste management requirements are consistent with and resemble the federal requirements in format, standards, and language, but the California requirements address a broader scope of hazardous wastes and regulated entities.

### *Generators*

As with the federal hazardous waste generator requirements, California hazardous waste generators are regulated according to the amount of hazardous waste generated per month. However, California utilizes the CESQG generator category and standards only for generators of wastes that are hazardous for silver-only. All other generators are categorized as either Large Quantity Generators ( $\geq 1000$  kg/month) or Small Quantity generators ( $< 1000$  kg/month). These generators may accumulate or store hazardous waste onsite for 270, 180, or 90 days or less (depending on monthly generation volume and location) without a permit provided that the generator complies with the provisions of Title 22, California Code of Regulations (CCR), section 66262.34. These provisions include requirements that the waste is placed in containers, drip pads, or containment buildings, and requirements for spill prevention. Generators are usually also required to ship hazardous waste using a hazardous waste manifest and a registered hazardous waste hauler. In addition, generators must train their employees, notify DTSC to obtain an ID Number, and maintain a hazardous waste contingency plan, among other requirements.

### *Offsite Facility Authorization*

All facilities that are not otherwise exempted are required to obtain authorization from DTSC for offsite treatment, transfer, storage, and disposal of hazardous waste [Health and Safety Code (HSC) section 25201]. The options for obtaining authorization for offsite management are:

**Full permit:** This grant of authorization is equivalent to the federal RCRA permit and requires extensive document production and review, a public participation process, a determination under CEQA, and formal approval by DTSC after public review and comment and a formal hearing.

**Standardized permit:** This grant of authorization applies similar requirements and procedures to the full permit except that many plans and documents are reviewed upon inspection rather than pre-reviewed prior to granting authorization. Facilities operating under a Standardized permit are allowed to manage only those wastes which are either 1) not considered hazardous wastes under RCRA, but are considered hazardous wastes under California law (these wastes are referred to as “non-RCRA” hazardous wastes); or 2) are considered hazardous wastes under RCRA but are not subject to RCRA permitting requirements. The standards established for operation under a Standardized Permit include requirements for waste analysis, security (fencing, controlled entry, etc.), inspections/recordkeeping, personnel training, management of incompatible, ignitable, or reactive wastes, facility location, design and construction standards, emergency preparedness and prevention, containment, corrective action, facility closure/postclosure,

closure financial assurance, and a determination under CEQA.

Permit by Rule (PBR): This grant of authorization is granted upon receipt of a complete notification by a qualifying facility. It establishes the same or similar requirements to a full or standardized permit but does not require public participation, pre-review of plans and documents, or an individual CEQA determination (a CEQA determination was provided for the regulations rather than the individual grant of authorization). As with the Standardized Permit, facilities operating under PBR are allowed to manage only those wastes which are either 1) “non-RCRA” hazardous wastes; or 2) are considered hazardous wastes under RCRA but are not subject to RCRA permitting requirements. Currently, authorization under PBR is limited to onsite treatment of hazardous waste and offsite temporary and permanent household hazardous waste collection facilities (THHWCFs and PHHWCFs). The standards established for operation under PBR include compliance with generator standards and specific facility management requirements; corrective action via the Phase I environmental assessment; and financial assurances for closure of the facility.

#### *Remote Site Consolidation*

A special statutory provision allows generators to transport wastes from remote, unstaffed sites to a location designated as a “consolidation site,” using their own vehicles and no manifest, and to manage the wastes as if they were generated at the consolidation site (HSC sections 25110.10 and 25121.3). This provision requires notification to the appropriate Certified Unified Program Agency (CUPA) and compliance with safety, spill response, and recordkeeping standards.

#### Transportation Requirements

Existing law requires that hazardous waste be transported in California under a hazardous waste manifest using a registered hazardous waste transporter (HSC section 25160). However, these requirements are not applied to generators meeting the federal CESQG criteria who are transporting no more than 5 gallons or 50 pounds of hazardous waste to a permitted facility, or to an authorized household hazardous waste collection facility.

### **SUMMARY OF THE PROPOSED RULES**

The proposed regulations would provide school districts with a PBR authorization alternative for offsite collection, consolidation, and accumulation of hazardous wastes generated by the routine operation and maintenance of K - 12 schools. The PBR authorization would require similar key waste management and facility operation protections as a Standardized permit, including facility inspections, secondary containment, and closure financial assurance. However, instead of requiring review and approval of facility plans prior to authorization (as with the Standardized Permit), the facility owner or operator would submit a notification to the local CUPA. In addition to the facility requirements, the proposed regulations would also establish restrictions on the wastes

eligible for management at a SHWCCAF and would provide conditional exemptions from hazardous waste manifest and registered transporter requirements for wastes transported from contributing schools to the SHWCCAF.

## **EFFORT TO AVOID DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS**

There is no duplication or conflict with federal hazardous waste management regulations because the proposed regulations address management of only those hazardous wastes that are either non-RCRA or RCRA hazardous wastes whose transportation and management at the SHWCCAF is exempt from, or is not otherwise regulated pursuant to, the federal act. In addition, the transportation elements of the proposed regulations are consistent with and do not duplicate or conflict with federal Hazardous Materials Uniform Transportation Safety Act requirements.

## **STUDIES RELIED ON**

The information relied upon in developing and proposing these regulations came from public workshop testimony; existing facility operation data; DTSC's HAZNET hazardous waste manifest database research; reports and information generated from Internet searches and inquiries; the HSC section 25150.6 analysis and findings for activities that differ from existing statutory requirements; and the Notice of Exemption prepared under CEQA. [A detailed list of the information relied upon in developing the regulations is included as Appendix 1.]

Because little data is available on the specific amounts and impacts of hazardous wastes generated by K - 12 schools in general, or in California in particular, some of the information used in the development of these regulations pertained to conditions in other states and primarily addressed science laboratory chemical management hazards. Wastes potentially generated by California K - 12 schools were identified by inquiries to school districts and staff assessments of wastes produced by typical school functions.

Four public workshops were held by DTSC in November 2000 to solicit information and comments from the regulated community on the concepts for these regulations prior to development. Testimony taken at the workshops largely supported the concepts of the regulations but also focussed on the lack of training and knowledge about hazardous waste management at schools. Knowledge and application of hazardous waste management practices seemed to vary according to the size of the school and available personnel expertise.

## **ALTERNATIVES CONSIDERED**

DTSC considered the following alternatives to the proposed regulations and has rejected these alternatives. The alternatives and the reasons they were rejected are as follows:

1. *“Do Nothing” alternative:* Under this alternative, K - 12 schools wastes would continue to be regulated according to the existing California hazardous waste management requirements for generators, transporters, and facility authorization under a Standardized Permit for offsite storage of hazardous wastes. Schools would be forced to either continue to manage the waste onsite according to the existing generator requirements or seek authorization for offsite storage under a Standardized Permit.

DTSC rejected this alternative because the existing requirements do not provide for an intermediate regulatory option more appropriate for the management of the types of lower risk wastes typically generated by the routine operation and maintenance of K - 12 schools.

2. *Remote Site Consolidation:* DTSC also considered establishing requirements for offsite storage/consolidation of school wastes pursuant to the remote site consolidation provisions of HSC sections 25110.10 (consolidation site provisions) and 25121.3 (remote site provisions). Remote site consolidation under the provisions of HSC sections 25110.10 and 25121.3 applies only to hazardous wastes that are not subject to RCRA permitting requirements and are not generated through large spill cleanup activities. These provisions conditionally allow hazardous waste, initially collected at a remote site and subsequently transported to a consolidation site operated by the generator of the hazardous waste, to be deemed to be generated at the consolidation site. The remote site consolidation exemption relies mainly on modified generator standards and notification requirements, assuming that the generator has direct control of the wastes at the remote sites as well as at the consolidation site. No advance notification or application is required. The generator is, however, required to submit an annual notification to the CUPA (or DTSC in non-CUPA jurisdictions) of the generator’s intent to operate under the exemption.

DTSC rejected this alternative for two main reasons. First, the remote site consolidation provisions are intended for sites that are not routinely staffed or occupied. Schools do not meet both the intent and statutory definition of remote site. Second, the remote site waste consolidation provisions largely apply generator standards at the consolidation site, instead of facility standards, because the waste is deemed to be generated at the consolidation site. Consequently, key facility operation protections, such as facility inspections, secondary containment, and closure financial assurance would not apply at the consolidation site and each school would not be regulated as a hazardous waste generator since the waste would be considered to be generated at the consolidation site.

## **AUTHORITY AND REFERENCE**

Authority: These regulations are being adopted under the following authority:

HSC section 25150: Authority to establish standards for classifying and managing hazardous wastes.



HSC section 25150.6: Authority to vary from specific statutes upon making specified findings.

HSC section 25161: Authority to adopt and enforce regulations to address transportation of hazardous waste.

HSC section 25200: Authority to issue hazardous waste facilities permits and establish conditions and requirements for those permits.

HSC section 25245: Authority to adopt regulations for hazardous waste facility closure and maintenance financial assurance.

HSC section 58012: General authority to adopt regulations.

Reference: These regulations are being adopted to implement, interpret, or make specific the following statutes:

Sections 25117.1, 25123.7(b), 25150, 25150.6, 25158, 25160, 25161, 25163, 25185.6, 25186, 25186.1, 25186.2, 25200, 25200.10, 25200.14, 25245, 25245.4, 25404.1 and 25404.2, HSC; Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

## **GENERAL STATEMENT OF REASONS**

Schools generate a variety of hazardous wastes from both educational and school facility maintenance activities. Education related hazardous wastes generally originate in science, art and drama, and shop classes. Wastes generated by educational activities and their potential hazardous waste characteristics (shown in parentheses) include:

Science Labs: Waste acids and alkalis (corrosive), solvents (toxic and ignitable), and metal salts (toxic). [While some very hazardous and explosive wastes are generated in science laboratories, such as picric acid and peroxidized ether, these wastes are not authorized for offsite management at a SHWCCAF according to the proposed regulations. These wastes should be managed and removed by specially trained personnel, such as emergency response teams, when discovered.]

Art and Drama classes: Glass etchants (corrosive and toxic), paints (ignitable and toxic), adhesives (ignitable and toxic), and non-empty aerosol cans (reactive).

Automotive shop classes: Waste oil, waste gasoline (ignitable and toxic), solvents (toxic, ignitable), and batteries (corrosive, toxic).

Wood and metal shop classes: Solvents (ignitable, toxic), finishes (ignitable, toxic), paint strippers (toxic), adhesives (ignitable, toxic), and solders (toxic).

Wastes generated from school maintenance activities include:

Paints (ignitable, toxic) and paint strippers (toxic).

PCB-containing lighting ballasts (toxic).

Asbestos-containing wastes (toxic).

Cleaners (toxic, ignitable, corrosive).

Management of hazardous wastes at schools is an issue of concern because children are very vulnerable to toxic hazards. As some of the most sensitive receptors for toxic materials, children should be separated as much as possible from contact with these materials. However, most schools currently manage these wastes onsite, as generators of hazardous waste, in storage areas on campus (often the janitor's closet), or in the science lab or other classroom. Furthermore, the wastes are often stored without adequate security provisions by persons often lacking chemical safety training. Access to the wastes is often uncontrolled, with wastes stored in fume hoods or open cabinets. Even where waste is sequestered from students, access to the waste may be simply a matter of breaking a lock and entering the storage cabinet or room. In addition, the potential for harm from student mischief, school vandalism, or even an accidental fire is often greatly increased if hazardous wastes stored onsite are involved. Not only do the wastes themselves pose an obvious hazard to students, onsite storage of the wastes can take up valuable space needed for educational purposes.

To address this concern, one school district<sup>2</sup> has obtained a variance from DTSC for operation of an offsite collection and storage facility at the school district corporation yard. Other school districts appear to be operating similar, but unauthorized storage areas. Still others continue to store their hazardous wastes on the school campus because there are no simple and cost-effective alternatives.

DTSC has chosen to propose a PBR authorization for offsite collection, consolidation, and accumulation of K - 12 schools wastes for the following reasons:

1) The Standardized Permit requirements are geared toward large volume industrial facilities engaged in higher-risk waste treatment, storage and disposal activities. These requirements are not on par with the lower volumes of wastes and risks associated with offsite collection of K - 12 schools wastes.

2) K -12 schools hazardous wastes are similar to the wastes and management

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<sup>2</sup> Long Beach Unified School District, in Long Beach, California, is currently operating an offsite hazardous waste storage and consolidation facility under an approved variance to manifesting, transportation, and Standardized Permit requirements.

risks associated with household hazardous wastes and CESQG wastes, and offsite collection of household hazardous wastes and CESQG wastes is currently authorized under PBR. Therefore, proven PBR management standards developed for temporary household hazardous waste collection facilities (THHWCFs) and permanent household hazardous waste collection facilities (PHHWCFs) can be used as a model for the authorization of K - 12 schools hazardous waste collection facilities (SHWCCAFs) under PBR; and

3) Authorization under PBR is relatively simple, inexpensive, and fast. These PBR attributes will help encourage school districts to create offsite school hazardous waste collection sites, thereby reducing the potential of student exposure to hazardous wastes stored onsite at individual schools. In addition, the relative ease of authorization under PBR may encourage schools operating unauthorized collection facilities to seek facility authorization in compliance with hazardous waste management requirements.

In addition to facility operation requirements, the proposed regulations include the waste eligibility restrictions, waste transportation provisions, and enhanced personnel training requirements discussed below.

- # In general, the wastes eligible for management at a SHWCCAF are being limited to routine school operation and maintenance wastes. Offsite collection at a SHWCCAF authorized under these regulations is not intended to apply to the larger quantities of waste generated during construction or large scale renovation activities. These wastes are usually generated by contractors in sufficient quantities to allow economical transport directly from the school to an authorized disposal facility, so intermediate storage is neither necessary or appropriate.
- # DTSC is also proposing that school wastes be transported from the schools to the SHWCCAF without the use of a manifest or a registered hazardous waste hauler. These provisions are limited to transport under the existing statutory exemption for less than 5 gallons and less than 50 pounds (HSC section 25163) or for transport of no more than 135 gallons or 1,100 pounds, in a vehicle owned or operated by the schools or school district, using a shipping paper instead of a manifest. The conditions placed on the transportation of wastes to the SHWCCAF help ensure protection of human health, safety, and the environment. In addition, the provisions may also facilitate timely removal of hazardous wastes from the individual schools. However, transportation of hazardous waste from the SHWCCAF to an authorized disposal facility will still require use of a manifest and registered hazardous waste hauler.
- # Enhanced training requirements are included for all contributing schools and SHWCCAF personnel identifying, transporting, and handling hazardous waste. DTSC's research, as well as testimony received, consistently reinforced the need for information and school personnel training in identification and management of

hazardous waste. Teachers, in particular, were identified as needing information on the hazards of chemical wastes and other hazardous materials because 1) class activities can generate hazardous waste and teachers need to know how to safely handle that waste; and 2) teachers are usually the ones to alert school authorities to maintenance concerns, accidents, or necessary repairs (especially in science classrooms and laboratories) and they need to be able to identify when conditions or materials are hazardous.

Organizationally, the proposed regulations have been grouped together into a single article in order to provide, to the degree possible, all requirements applicable to SHWCCAFs in one location for simplicity and clarity. Incorporation of requirements by reference was also kept to a minimum to limit the amount of cross referencing necessary to identify applicable requirements. In addition, it should be noted that the proposed regulations are written to address the most complex situations and waste management scenarios possible within the proposed authorization limitations. Therefore, application of some of the requirements will depend on the size and complexity of the SHWCCAF operation. For example, a small SHWCCAF that doesn't manage science laboratory hazardous waste or use storage tanks will be subject to fewer requirements than a SHWCCAF that does manage science laboratory wastes and use tanks to store hazardous waste.

Finally, the proposed regulations are, in large part, modeled after the existing PBR requirements for THHWCFs and PHHWCFs, as well as some of the general PBR requirements for Fixed Treatment Units. This was done to provide consistency in the application of PBR requirements and because, as noted above, the hazardous wastes generated by K - 12 schools, and the risks associated with the management of those wastes, are similar to the wastes and risks associated with THHWCFs and PHHWCFs. (Notations of specific regulatory consistencies are included in the detailed statement of reasons.)

## **DETAILED STATEMENT OF REASONS/NON-CONTROLLING PLAIN ENGLISH SUMMARY**

### **Amend Chapter 45 of the Table of Contents to add Articles 1, 2, 3, 4, and 5.**

Chapter 45 in the Table of Contents is amended to reflect the changes to chapter 45 and the addition of articles 1, 2, 3, 4, and 5.

### **Amend Section 66262.20(a). Generator Manifest General Requirements:**

This section is amended to add the phrase "except those generators identified in subsection (a)(1)". This amendment is necessary to establish an exemption from the generator manifest requirements for those generators identified in subsection (a)(1). In addition, the section is amended to provide a non-substantive update on the telephone number for manifest ordering information.

**Add Section 66262.20(a)(1):**

This section is amended to add subsection (a)(1). This amendment provides the specifics for the section 66262.20(a) exemption from generator manifest requirements. Section (a)(1) specifies that a generator who qualifies as a contributing school pursuant to article 5 of chapter 45 is not subject to the generator manifest transportation requirements for transportation of K - 12 schools hazardous waste to a SHWCCAF as long as the generator complies with the provisions of article 5 applicable to contributing schools. This amendment is necessary to allow implementation of the transportation elements in proposed article 5 of chapter 45.

**Amend Section 66270.60(a):**

This section is amended to allow the owner or operator of a SHWCCAF operating under a variance previously issued by DTSC, that would be eligible for operation of the SHWCCAF under permit by rule, to continue operation under the conditions of the variance until the variance expires. This provision is necessary to give a SHWCCAF operating under a variance sufficient time to transition from compliance with the regulatory provisions established in the variance to compliance with the proposed PBR requirements to be established in article 5 of chapter 45. In addition, by allowing operation of the SHWCCAF until the variance expires, the SHWCCAF owner or operator would not be subject to economic loss associated with early revocation of the variance.

**Add Subsection 66270.60(d)(7):**

Section 66270.60(d) is amended by adding subsection (d)(7) to include SHWCCAFs in the list of activities eligible for authorization under permit by rule. The subsection also establishes that the owner or operator of a SHWCCAF must meet the notification and acknowledgement conditions established in proposed section 67450.43 in order to be deemed to have a permit by rule. This subsection is necessary to establish SHWCCAF eligibility for authorization under permit by rule pursuant to the Hazardous Waste Permit Program regulations.

**Add Subsection 66270.60(d)(7)(A):**

This amendment adds subsection 66270.60(d)(7)(A) to establish that owners or operators of SHWCCAFs operating under a variance must submit a notification for operation of the SHWCCAF under PBR no later than 45 days prior to the expiration date of the variance. The section further prohibits operation of the SHWCCAF after the expiration of the variance unless authorization under PBR has been received. This subsection is needed to ensure that any SHWCCAF operating under a variance according to amended section 66270.60(a) either ceases operation once the variance expires, or submits a notification for operation of the SHWCCAF under PBR and receives authorization to operate under PBR pursuant to proposed section 67450.43.

#### **Amend Chapter 45 to Add Article 1:**

This chapter is amended to add article 1 to chapter 45 and move the existing sections of chapter 45 into article 1. This amendment is necessary to establish an article structure in chapter 45 for current and future organizational use and regulatory clarity, without renumbering or reordering existing sections.

#### **Amend Chapter 45 to Add Article 2 (Reserved):**

This chapter is amended to add article 2 as a reserved article to be used for future organizational use. This amendment is necessary to establish an article structure in chapter 45 for current and future organizational use and regulatory clarity, without renumbering or reordering existing sections.

#### **Amend Chapter 45 to Add Article 3 (Reserved):**

This chapter is amended to add article 3 as a reserved article to be used for future organizational use. This amendment is necessary to establish an article structure in chapter 45 for current and future organizational use and regulatory clarity, without renumbering or reordering existing sections.

#### **Amend Chapter 45 to Add Article 4 (Reserved):**

This chapter is amended to add article 4 as a reserved article to be used for future organizational use. This amendment is necessary to establish an article structure in chapter 45 for current and future organizational use and regulatory clarity, without renumbering or reordering existing sections.

#### **Amend Chapter 45 to Add Article 5, Requirements Applicable to the Operation of K - 12 Schools Hazardous Waste Collection, Consolidation, and Accumulation Facilities (SHWCCAF) Deemed to have a Permit By Rule:**

This proposed article, and the sections contained therein, specifies the requirements applicable to the operation of K - 12 SHWCCAFs deemed to have a permit by rule. The article structure is being used for regulatory clarity; to provide, to the extent practicable, a single location detailing the requirements for operation of SHWCCAFs under PBR.

#### **Add Section 67450.40, Scope and Purpose:**

As noted in the general statement of reasons, the intended goal of the proposed article 5 regulations is to help reduce existing and potential threats to children from exposure to hazardous wastes stored onsite at K - 12 schools. This section establishes the scope and purpose of article 5 to support that intended goal. This section is needed to expressly state who and what is covered or established by the provisions of article 5.

**67450.40(a)** provides the scope of the article 5 provisions by stating that the article 5 provisions apply to the items or entities given in subsections (a)(1) and (2).

**67450.40(a)(1)** establishes that the article 5 provisions apply to school districts, or other eligible school agencies, who own or operate a SHWCCAF deemed to have a permit by rule. This subsection is needed to clearly state who may operate under the provisions of article 5.

**67450.40(a)(2)** establishes that the article 5 provisions apply to hazardous waste generated by K - 12 schools if the waste will be managed at a SHWCCAF under PBR. This subsection is needed to clearly state what wastes may be managed under the provisions of article 5.

**67450.40(b)** states that the purpose of article 5 is to provide an alternative offsite hazardous waste management regulatory option that addresses the items given in subsections (b)(1) through (3). This subsection and subsections (b)(1) through (3) are needed to expressly state the purpose of article 5 and what is covered, established, or promoted by the provisions of the article.

**67450.40(b)(1)** states that one purpose of the article 5 regulatory option is to establish the authorization mechanisms and waste management requirements for offsite waste collection, consolidation, and accumulation at a SHWCCAF authorized under PBR.

**67450.40(b)(2)** states that one purpose of the article 5 regulatory options is to establish the criteria and requirements for wastes generated at K - 12 schools that are to be sent to a SHWCCAF.

**67450.40(b)(3)** states that one purpose of the article 5 regulatory option is to establish the transportation requirements for hazardous wastes generated at a K - 12 school that are being transported to the SHWCCAF.

**Add Section 67450.41, Definitions:**

This proposed section defines the following terms for use in the context of the proposed article 5 requirements: "Certified Unified Program Agency (CUPA)," "consolidation," "contributing school," "facility," "K - 12 schools," "lab pack," "offsite," "owner or operator," and "school district". These definitions are necessary to clarify what is meant by these terms when used for the purposes of article 5.

**Add Section 67450.42, Eligible Wastes and Waste Management Restrictions:**

This proposed section first establishes which wastes are generally eligible for management at a SHWCCAF. The section then details specific prohibitions and waste management restrictions for wastes managed at a SHWCCAF according to the provisions

of article 5.

**67450.42(a)** establishes that the hazardous wastes identified in subsections (1) and (2) are eligible for management by SHWCCAFs authorized under PBR.

**67450.42(a)(1) and (2)** identify non-RCRA hazardous wastes, and RCRA hazardous wastes that are exempt from, or not subject to RCRA transportation and permitting requirements, as eligible for management by SHWCCAFs authorized under PBR. These requirements are necessary because, in California, waste management authorized under PBR is limited to non-RCRA wastes or RCRA wastes whose management is exempt from, or is not otherwise regulated according to RCRA permitting requirements. Consequently, authorization for SHWCCAFs under PBR is applicable only to these wastes. While this restriction is implicit as a requirement for authorization under PBR, it is explicitly stated here to ensure that regulated persons are aware of the restriction.

Practically, this restriction also means that contributing schools will have to monitor what wastes they generate to ensure that the wastes are either non-RCRA (such as asbestos or PCB wastes) or wastes that are not subject to RCRA permitting requirements (such as used oil, universal wastes, and federal CESQG wastes). In most cases, unless a contributing school is generating exclusively non-RCRA wastes, used oil, or universal waste, each contributing school will need to qualify as a federal CESQG each month in order to send its RCRA wastes to a SHWCCAF.

**67450.42(b)** establishes which wastes are prohibited from management under the provisions of article 5. Offsite management of hazardous waste at a SHWCCAF authorized under PBR is intended for lower risk wastes and waste management activities similar to wastes and management activities allowed at PHHWCFs authorized under PBR. The wastes and waste management activities identified in subsections (1) through (4) are prohibited because they represent higher risk wastes and waste management activities that are not intended for management at SHWCCAFs authorized under PBR.

**67450.42(b)(1)** identifies treatment of hazardous waste at the SHWCCAF as a prohibited activity. This requirement is necessary because treatment of hazardous waste at a SHWCCAF represents a higher waste management risk than storage or consolidation, and is not intended for SHWCCAFs authorized under PBR.

**67450.42(b)(2)** identifies acceptance of reactive hazardous wastes at the SHWCCAF as a prohibited activity. This requirement is necessary because management of reactive hazardous wastes, including explosive or shock-sensitive hazardous wastes, represents a potentially dangerous, high waste management risk, not intended for SHWCCAFs authorized under PBR.

**67450.42(b)(3)** identifies acceptance of hazardous wastes not generated by the routine operation and maintenance of K -12 schools as a prohibited activity. This requirement is necessary because non-routine demolition, construction, or renovation hazardous wastes



tend to be higher in volume and may be less easily characterized and managed than routine school operation and maintenance wastes, and are therefore not intended for collection and storage at a SHWCCAF. These wastes should be sent directly to an authorized treatment, storage, recycling or disposal facility using a hazardous waste manifest and registered hazardous waste transporter.

**67450.42(b)(4)** identifies uncontained storage, storage in waste piles and surface impoundments, and land disposal of hazardous wastes at the SHWCCAF as prohibited activities. This requirement is necessary because uncontained storage, waste piles, surface impoundments, and land disposal of hazardous wastes at the SHWCCAF represent higher risk management activities that are more appropriately authorized under a Standardized or Full permit.

**67450.42(c)** allows hazardous wastes generated from school science laboratories to be managed at a SHWCCAF under the conditions specified in subsections (1) through (3). This requirement is necessary to establish the conditions under which school science lab wastes may be accepted for management by a SHWCCAF authorized under PBR.

**67450.42(c)(1)** requires that science lab hazardous wastes, except laboratory specimens preserved in formalin or formaldehyde, be lab packed prior to transport in accordance with the physical properties of the chemicals and the requirements of existing section 66264.316. [Section 66264.316 establishes the requirements for disposal of small containers of hazardous waste in overpacked drums (also known as lab packs)]. This requirement is necessary to ensure that eligible lab wastes sent to a SHWCCAF are packed and managed properly. Lab specimens preserved in formalin or formaldehyde are excluded from this requirement because this wastestream is suitable for consolidation according to the provisions established in proposed sections 67450.42(d) and 67450.44(a)(7).

**67450.42(c)(2)** requires that lab packs containing lab hazardous wastes are marked with the types and volumes of waste contained in the lab pack and are not reopened during transportation to the SHWCCAF, or at the SHWCCAF. This requirement is necessary to clearly identify what is in the lab pack and also prevent inappropriate consolidation or mismanagement of lab wastes at any point during transport or storage prior to disposal.

**67450.42(c)(3)** requires that any personnel handling the lab wastes at the contributing school or in transit to the SHWCCAF are trained in hazardous waste management and transport in accordance with sections 66265.16 and 67450.47. [Section 66265.16 is an existing section that addresses facility as well as generator personnel training requirements. Section 67450.47 is a proposed section under article 5 of chapter 45 that establishes the training requirements for SHWCCAF operation under PBR.] This requirement is necessary to help ensure the safe packing of lab hazardous wastes at the contributing school site, as well as safe transport from the contributing school to the SHWCCAF, by making the required training a condition of waste eligibility for management at a SHWCCAF.

**67450.42(d)** establishes which hazardous wastes or wastestreams may be consolidated with wastes of the same type into a single container at the SHWCCAF. This requirement is necessary to allow consolidation of some hazardous wastes, thereby enabling the SHWCCAF to reduce the number of small or partially filled containers used or stored, save space, and transport or recycle eligible wastes more efficiently and cost effectively. This subsection also requires that the actual consolidation of the wastes be conducted only at the SHWCCAF. This requirement is necessary to prevent inappropriate management or spills of wastes during transport to the SHWCCAF and to facilitate accurate waste tracking prior to consolidation. In addition, this subsection states that each hazardous waste type or wastestream listed can only be consolidated with a waste or wastestream of the same type. This requirement is necessary to prevent inappropriate or incompatible mixing of wastes. [Note: Specific SHWCCAF facility operation requirements applicable to consolidation, such as containment and emission control requirements, are established in section 67450.44(a)(7).]

**67450.42(d)(1) through (d)(11)** specifically identify the following wastes as eligible for consolidation: duplicating fluid; compatible formalin or formaldehyde solutions; compatible laboratory specimens; compatible solvents; water-based or latex paints; oil-based paints; antifreeze; gasoline; used oil; compatible organic resins (such as roofing tar or caulking and patching compounds); and silver-only photoimaging solutions. These wastes or wastestreams are identified as appropriate for consolidation because they are readily recyclable or reusable, or consolidation provides for cost-effective transportation and disposal. This listing of eligible wastes is consistent with the existing listing of wastes eligible for consolidation under the PHHWCF PBR requirement established in section 67450.25(a)(4)(D). Duplicating fluid, compatible formalin or formaldehyde solutions, and compatible laboratory specimens have been added to the list of eligible wastes because they are wastestreams suitable for consolidation that are commonly found in K - 12 schools.

**67450.42(e)** provides that SHWCCAFs can be established only at offsite, non-schoolyard locations where operation of the SHWCCAF is consistent with local land use zoning or land use patterns (e.g., a school district corporation yard). Use of the term “offsite” also establishes that the non-schoolyard property be in direct control of the SHWCCAF owner or operator and not accessible to students because “offsite” is defined in proposed section 67450.41(a)(7) to mean “non-schoolyard property in direct control of the SHWCCAF owner or operator that is not accessible to school students or the general public.” This section is necessary to prevent SHWCCAFs from being located in areas readily accessible to students (or the general public), so that students are not put at risk from exposure from waste stored and managed at the SHWCCAF, or on properties where the SHWCCAF owner or operator cannot control activities at the site. This section also ensures that the SHWCCAF is not located in an area where the operation of the SHWCCAF would be inconsistent with surrounding land uses.

**67450.42(f)** requires that wastes are accepted at the SHWCCAF only when personnel designated by the SHWCCAF owner or operator are present to accept and sign for the

waste. This requirement is necessary to prevent waste unauthorized “drop-offs” at the SHWCCAF, and to reinforce waste tracking and waste management accountability by both the transporter and SHWCCAF personnel.

**Add Section 67450.43, Notification Requirements:**

This proposed section establishes the administrative requirements necessary for authorization of a SHWCCAF under PBR.

**67450.43(a)** establishes that the owner or operator of a SHWCCAF can operate under permit by rule if they comply with the notification and compliance requirements of subsections (b), (c), (d), and (h) of this section, and receive acknowledgment from the CUPA or authorized agency authorizing operation of the SHWCCAF pursuant to subsections (e) or (g). This subsection is needed to clarify when the owner or operator of a SHWCCAF actually has a permit by rule. [This section is consistent with the existing PBR PHHWCF requirement established in section 66270.60(d)(6).]

**67450.43(b)** requires the owner or operator of a SHWCCAF to submit to the CUPA or authorized agency a notification of intent to operate a SHWCCAF under PBR. The notification must be made in person or by certified mail and consists of the Business Activities Page and Business Owner/Operator Page of the Unified Program Consolidated Form (UPCF), as well as the information required in subsections (b)(1) through (b)(11). This requirement is necessary to clarify what constitutes the required notification and how the notification needs to be submitted. While the PBR fixed treatment unit and PHHWCF notifications use specific pages of the UPCF to make the required notifications, the UPCF does not currently include a specific page for SHWCCAF notifications. Therefore, this section establishes in subsections (b)(1) through (b)(11) what specific information is necessary for notification in addition to the Business Activities and Business Owner/Operator Pages of the UPCF. [This section is consistent with the existing PBR PHHWCF requirements established in section 66270.60(d)(6).]

**67450.43(b)(1)** requires that the name, mailing address, and telephone number of the SHWCCAF owner or operator be included as part of the notification. This is necessary to enable the CUPA or authorized agency to contact the owner or operator for more information, to coordinate any regulatory compliance activities, and to clearly establish the identity of the legal owner or operator of the SHWCCAF. [This subsection is consistent with the existing PBR PHHWCF requirement established in section 66270.60(d)(6)(A)1.]

**67450.43(b)(2)** requires that the facility name, address, legal description of the facility location, and identification number be included as part of the notification. This information is necessary for regulatory compliance purposes, such as waste tracking and facility inspections. [This subsection is consistent with the existing PBR PHHWCF requirement established in section 66270.60(d)(6)(A)2.]

**67450.43(b)(3)** requires that the name, title, address, telephone number, facsimile

number, and pager number, if applicable, of the facility contact person be included as part of the notification. This information is necessary for the CUPA or authorized agency to be able to readily contact the facility representative for both regulatory compliance and emergency notification/response purposes. [This subsection is consistent with the existing PBR PHHWCF requirement established in section 66270.60(d)(6)(A)3.]

**67450.43(b)(4)** requires that the name, address, and telephone number of the legal owner of the property where the SHWCCAF is located be included as part of the notification. The subsection also requires that if the legal owner of the property where the SHWCCAF is located is different from the SHWCCAF owner/operator, then a copy of a signed agreement with the property owner acknowledging and allowing operation of the SHWCCAF must be included as part of the notification. This is necessary to identify the actual owner of the property where the SHWCCAF is located and to ensure that the property owner is informed and agrees to operation of the SHWCCAF on the property. [This subsection is consistent with the existing PBR PHHWCF requirement established in section 66270.60(d)(6)(A)5.]

**67450.43(b)(5)** requires that a list of all schools that will contribute hazardous waste to the SHWCCAF be included as part of the notification. This information is necessary for regulatory compliance purposes, such as waste tracking.

**67450.43(b)(6)** requires that an estimate of the total volume of hazardous wastes to be received at the SHWCCAF in an average month be included as part of the notification. This information is necessary to evaluate and ensure that the SHWCCAF has sufficient capacity to handle the amounts of waste estimated in the notification, taking into account the SHWCCAF maximum waste quantities and accumulation time limits. [This subsection is consistent with the existing PBR PHHWCF requirement established in section 66270.60(d)(6)(A)8.]

**67450.43(b)(7)** requires that a description of how the waste will be managed at the SHWCCAF, including the number of waste storage containers, volumes of each container, and total waste storage capacity of the SHWCCAF, be included as part of the notification. This information is necessary to evaluate the adequacy of waste management and storage capacity of the SHWCCAF, and for regulatory compliance purposes. [This subsection is consistent with existing PBR PHHWCF requirements established in sections 66270.60(d)(6)(A)9 and 11.]

**67450.43(b)(8)** requires that a description of the facility operation hours and safety precautions be included as part of the notification. This information is necessary so that the CUPA, any authorized agencies, and the general public clearly know when the facility is in operation and what safety measures are in place to protect human health, safety, and the environment. (The requirements for safety measures applicable to SHWCCAF are incorporated in the facility requirements established in proposed section 67450.44.) [This subsection is consistent with existing PBR PHHWCF requirement established in section 66270.60(d)(6)(A)10.]

**67450.43(b)(9)** requires that a detailed description of the physical components of the SHWCCAF be included in the notification. The description must include, at a minimum, information on fencing, gates, traffic flow, waste transfer areas, waste sorting areas, waste storage areas, containment features, and a description of the uses of the property surrounding the SHWCCAF and the SHWCCAF site property. This will provide the CUPA or authorized agencies with detailed information on the components of the facility that are not readily apparent from a facility plot map, including things like height of fences, types of containers and secondary containment, and adjacent land uses. This information is necessary to help ensure that the facility is operating safely and in compliance with applicable requirements.

**67450.43(b)(10)** requires that the financial assurance certification required by proposed section 67450.50(e) be included as part of the notification. This is necessary to ensure that the SHWCCAF owner or operator has performed the required financial assurance cost estimate for closure of the SHWCCAF and to enable the CUPA or authorized agency to verify closure estimates and financial assurance mechanisms.

**67450.43(b)(11)** requires that a facility plot map showing the general layout of the SHWCCAF be submitted as part of the notification. The plot map must be drawn to fit on an 8 1/2" by 11" sheet of paper. It must also include the following items listed in subsections (11)(A) through (F): a map scale; north arrow; date; boundaries of the SHWCCAF; the name and location of each operation area and waste management unit; the approximate location of the property boundaries with respect to the SHWCCAF; security provisions; and internal roads and traffic flow. This requirement is needed to ensure that the CUPA or authorized agency is provided with the information, in the form of a plot map visual tool, necessary to evaluate SHWCCAF operating conditions and compliance with facility requirements. [This subsection is consistent with the existing PBR PHHWCF requirement established in section 66270.60(d)(6)(A)12.]

**67450.43(c)** requires that the SHWCCAF notification be submitted 45 days in advance of operation of the SHWCCAF, and every five years thereafter, or every five years revision of the notification; and that the notification be completed, signed, and dated according to the requirements of section 66270.11, Signatories to Permit Applications and Reports. The 45 day advance submittal requirement is necessary to allow the CUPA or authorized agency sufficient time to review the notification for completeness, determine whether the owner or operator meets all the requirements for operation of the SHWCCAF under PBR, and determine if any cause exists for denial of authorization. In addition, the five year notification requirement is necessary to establish a fixed term for the PBR authorization, in compliance with the HSC section 25200(c) statutory provision that permits to be issued for fixed terms. The signatory requirement is also necessary to ensure that a responsible representative of the owner or operator will be held accountable for the accuracy and completeness of the information contained in the notification. [This subsection is consistent with the existing PBR PHHWCF requirements established in section 66270.60(d)(6).]

**67450.43(d)** requires that the owner or operator of a SHWCCAF with contributing schools

in different CUPA or authorized agency jurisdictions submit copies of the SHWCCAF notification, with an explanation that the copy is for information only, to each CUPA in which a contributing school is located. The section also provides that the CUPA in whose jurisdiction the SHWCCAF is located must coordinate with any other CUPAs or authorized agencies having jurisdiction over contributing schools on issues affecting those contributing schools. This requirement is necessary to help ensure consistency, cooperation, and coordination in the regulatory oversight provided by CUPAs (or other Unified Program agencies) for both the contributing schools and the SHWCCAF operating under the provisions of article 5 of chapter 45.

**67450.43(e)** establishes what the CUPA or authorized agency will do upon receipt of a notification to operate a SHWCCAF under PBR. First, the CUPA or authorized agency must acknowledge receipt of the notification within 30 calendar days and authorize operation of the SHWCCAF, deny authorization, or inform the owner or operator that the notification is incomplete and what additional information is necessary. The CUPA or authorized agency must also deny authorization to any owner or operator who fails to provide the requested information within 10 calendar days, but may grant the owner or operator additional time upon good cause. An owner or operator whose notification is denied may resubmit a new or revised notification. Finally, the CUPA or authorized agency must submit copies of any letters modifying or revoking authorization of the SHWCCAF to CUPAs or authorized agencies in whose jurisdictions the SHWCCAF contributing schools are located. This subsection is necessary to (1) ensure that the review of notifications and authorization or denial of authorization are undertaken within a specific timeframe; (2) let both the CUPA or authorized agency and the regulated community know exactly what actions are to be taken by the CUPA or authorized agency and when those actions must be taken; and (3) ensure consistency, cooperation, and coordination in the regulatory oversight provided by CUPAs (or other Unified Program agencies) for both the contributing schools and the SHWCCAF. [This subsection is consistent with the existing PBR PHHWCF requirements established in section 66270.60(d)(6)(B).]

**67450.43(f)** requires the owner or operator of a SHWCCAF to submit to the CUPA or authorized agency a revised notification 45 calendar days prior to implementing any change in the operation of the SHWCCAF as it was described in the notification required by subsection (b). This section also provides that the CUPA or authorized agency will notify the owner or operator if the revised notification is incomplete or inaccurate within 30 calendar days of receipt of the revised notification. In addition, the section provides that the CUPA must allow a shorter period for submittal of a revised notification prior to implementing a change if the owner or operator can show good cause for the shorter time period. This advance notice is intended to allow the CUPA or authorized agency sufficient time to review the revised notification for completeness and determine whether the owner or operator meets all the requirements for operation of the SHWCCAF under PBR or whether any cause exists for denial of the authorization. [This section is consistent with the existing PBR PHHWCF revised notification requirements established in section 66270.60(d)(6)(C).]

**67450.43(g)** establishes what the CUPA or authorized agency will do upon receipt of a revised notification submitted pursuant to subsection (f) of this section. As with the initial notification requirements established in subsection (e) of this section, the CUPA or authorized agency must acknowledge receipt of the revised notification within 30 calendar days and authorize continued operation of the SHWCCAF, deny authorization, or inform the owner or operator that the revised notification is incomplete and what additional information is necessary. The CUPA or authorized agency must also deny authorization to any owner or operator who fails to provide the requested information within 10 calendar days, but may grant the owner or operator additional time upon good cause. An owner or operator whose revised notification is denied may resubmit a new or revised notification, and may continue to operate the SHWCCAF under the conditions of the previous authorization until reauthorized, unless the previous authorization is invalid.

Finally, the CUPA or authorized agency must submit copies of the required modification acknowledgment to CUPAs or authorized agencies in whose jurisdictions the SHWCCAF contributing schools are located. This subsection is necessary to (1) ensure that the review of revised notifications and authorization or denial of authorization are undertaken within a specific timeframe; (2) let both the CUPA or authorized agency and the regulated community know exactly what actions are to be taken by the CUPA or authorized agency and when those actions must be taken; and (3) ensure consistency, cooperation, and coordination in the regulatory oversight provided by CUPAs (or other Unified Program agencies) for both the contributing schools and the SHWCCAF. [This subsection is consistent with the existing PBR PHHWCF requirements established in section 66270.60(d)(6)(D).]

**67450.43(h)** requires that each SHWCCAF owner or operator comply with the provisions of article 5 of chapter 45 between the time the SHWCCAF commences operation and the time the closure requirements of section 67450.48 are met. The purpose of this subdivision is to clarify the required compliance time for SHWCCAF operation. [This section is consistent with the existing PBR PHHWCF compliance requirement established in section 66270.60(d)(6)(E).]

**Add Section 67450.44, Facility Requirements:**

This proposed section establishes the specific requirements applicable to the operation of a SHWCCAF.

**67450.44(a)** states that the owner or operator of a SHWCCAF authorized under PBR must do, or be in compliance with, all the provisions established in subsections (a)(1) through (9) of this section. This is necessary to clearly establish that the SHWCCAF owner or operator must comply with all the requirements of this section in order to operate the SHWCCAF under PBR.

**67450.44(a)(1)** requires the owner or operator of a SHWCCAF to maintain compliance with sections 66262.10 through 66262.57, except section 66262.41, for any wastes

generated at the SHWCCAF. Application of generator requirements is necessary because the SHWCCAF would be considered a hazardous waste generator when hazardous waste is generated as a function of the operation of the SHWCCAF. In addition, the SHWCCAF would be considered the hazardous waste generator for any materials (such as excess paints or electronic equipment) received at the facility that are not determined to be wastes until they are evaluated at the SHWCCAF. In the case of materials received at the SHWCCAF that are later deemed to be hazardous wastes, the SHWCCAF becomes the generator by virtue of being the first person who causes the waste to become subject to regulation (see definition of “generator” in section 66260.10). [This subsection is consistent with the existing PBR PHHWCF requirements established in section 67450.25(a)(1).]

The following requirements from the existing hazardous waste generator standards established in chapter 12 are incorporated by reference:

Section 66262.10 (Purpose, Scope, and Applicability) establishes the standards for generators of hazardous waste in California.

Section 66262.11 (Hazardous Waste Determination) requires any person who generates a waste to determine if that waste is a hazardous waste.

Section 66262.12 (Identification Numbers for the Generator) requires generators of hazardous waste to get a hazardous waste generator Identification Number.

Section 66262.20 (General Manifest Requirements) establishes that hazardous waste generators must use a manifest when transporting waste offsite.

Section 66262.21 (Acquisition of Manifests) identifies what manifest must be used.

Section 66262.22 (Number of Copies) identifies the number of copies in a manifest and to whom the copies are given.

Section 66262.23 (Use of the Manifest) establishes how the generator must use and complete the manifest.

Section 66262.30 (Packaging) requires that, prior to transport, the generator must package the hazardous waste according to applicable Department of Transportation requirements.

Section 66262.31 (Labeling) requires that, prior to transport, the generator must label each package of hazardous waste according to applicable Department of Transportation requirements.

Section 66262.32 (Marking) requires that, prior to transport, the generator must mark each package of hazardous waste according to applicable Department of



Transportation requirements.

Section 66262.33 (Placarding) requires that, prior to transport, the generator must ensure that the transport vehicle is correctly placarded according to applicable Department of Transportation requirements.

Section 66262.34 (Accumulation Time) establishes the requirements for onsite accumulation of hazardous waste.

Section 66262.35 [Extension(s) to Accumulation Time] establishes the requirements for accumulating non-RCRA or RCRA exempt hazardous waste for longer than the time periods established in section 66262.34.

Section 66262.40 (Recordkeeping) establishes the records requirements for generators.

Section 66262.42 (Exception Reporting) requires generators to submit an Exception Report for manifest copies not received from the designated treatment, storage, recycling, or disposal facility.

Section 66262.43 (Additional Reporting) requires the generator to furnish additional reports on the quantity and disposition of wastes as necessary.

Section 66262.45 (Certification Requirements for the Generator) requires a waste reduction and treatment method certification from generators treating hazardous waste onsite.

Section 66262.47 (Operating Limits for Generators Using Transportable Treatment Units Operating Pursuant to a Permit by Rule) limits onsite treatment with a TTU to one year, unless otherwise extended by DTSC.

Sections 66262.50 through 57 (Article 5. Exports of Hazardous Waste) establish the requirements for export of hazardous waste to a foreign country.

Section 66262.41 is not incorporated by reference because it pertains to submittal of the generator biennial report required under Title 40, CFR, section 262.41. This requirement is not necessary because it applies to large quantity generators of RCRA hazardous waste (those generating more than 1,000 kg of RCRA hazardous waste per month). While the SHWCCAF may be considered a hazardous waste generator, the SHWCCAF is authorized primarily as a collection facility for non-RCRA hazardous waste or RCRA hazardous wastes not subject to RCRA permitting requirements. Generation of RCRA hazardous waste at the SHWCCAF should only be incidental to the operation of the SHWCCAF and should not reach volumes sufficient to trigger the RCRA biennial report requirement.

**67450.44(a)(2)** requires the owner or operator of a SHWCCAF to maintain compliance with existing sections 66264.175 and 66265.148. Section 66264.175 is incorporated by reference and requires a certified containment system for waste transfer and storage areas. The required containment system must include a sloped base which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and rainwater. [Most sections that are incorporated by reference are taken from Chapter 15, Interim Status Standards for Owners and Operators of Hazardous Waste Transfer, Treatment, Storage, and Disposal Facilities. However, section 66264.175 is found in Chapter 14, Standards for Owners and Operators of Hazardous Waste Transfer, Treatment, Storage, and Disposal Facilities and is incorporated by reference because there are no corresponding storage containment standards in Chapter 15.] Section 66265.148 is also incorporated by reference here. It requires the owner or operator to notify DTSC by certified mail of the commencement of voluntary or involuntary proceedings under bankruptcy within 10 days after commencement of the proceeding. These requirements are necessary to ensure proper waste containment to protect human health, safety, and the environment, and to inform DTSC if the facility is not financially solvent. [This subsection is consistent with the existing PBR PHHWCF requirements established in section 67450.25(a)(1).]

**67450.44(a)(2)(A)** specifies that the engineering certification required by section 66264.175(c) be provided by the manufacturer of the containment system, an independent professional engineer, or a professional engineer employed by a local government entity associated with the owner or operator of the SHWCCAF but not directly reporting to the owner or operator of the SHWCCAF. This requirement ensures that the waste containment systems are certified to be adequate to protect human health, safety, and the environment and prevent potential release of hazardous waste to the environment. This section also allows public schools districts, as owners or operators of a SHWCCAF, to not necessarily have to hire an independent engineer to certify the containment systems. They may use a professional engineer from a government agency associated with the school district as long as the engineer is from another division or agency that doesn't report directly to the owner or operator of the SHWCCAF. This allowance still provides for "independent" certification because the engineer does not report directly to the school district. It also helps prevent added financial burden on the public school district from the cost of using private sector "independent" professional engineers. [This subsection is consistent with the existing PBR PHHWCF requirements established in section 67450.25(a)(1).]

**67450.44(a)(3)** requires that the owner or operator of a SHWCCAF maintain compliance with specific provisions of existing chapter 15, as incorporated by reference in subsections (A) through (F). [This subsection and subsections (A) through (F) are consistent with the existing PBR PHHWCF requirements established in sections 67450.25(a)(2) and 67450.25(a)(2)(A) through (D),(F) and (G).]

**67450.44(a)(3)(A)** incorporates by reference the existing general facility standards from article 2, chapter 15, commencing with section 66265.10, except section 66265.13. Compliance with these existing regulations is necessary to ensure that SHWCCAFs

operating under PBR are operated in a manner that adequately protects human health and safety, and the environment. The following provisions are incorporated by reference:

Section 66265.10 (Applicability) establishes that the regulations in article 2 apply to owners or operators of all hazardous waste facilities.

Section 66265.11 (Identification Number) requires that the facility obtain an identification number from DTSC.

Section 66265.12 (Required Notices) requires that, if the facility transfers ownership, the owner or operator of a facility notify the new owner or operator of the requirements of chapter 15 and chapter 20.

Section 66265.14 (Security) requires the owner or operator to (a) prevent unauthorized entry of persons or livestock into the active portion of the facility; (b) provide a 24 - hour surveillance system or barrier which surrounds the active portion of the facility; and (c) post a sign saying "Danger Hazardous Waste Area - Unauthorized Personnel Keep Out."

Section 66265.15(a) (General Inspection Requirements) requires the owner or operator to inspect the facility for malfunctions and deterioration, operator errors, and discharges which may lead to a release of hazardous waste which may threaten human health or the environment

Section 66265.15(b) requires the owner or operator to develop and follow a written schedule for inspecting all monitoring equipment, safety, and emergency equipment, security devices, and operating and structural equipment. The schedule must be kept at the facility and must identify types of problems anticipated during the inspections. The inspection schedule must include, as applicable, the items and frequencies of inspections called for in sections 66265.174 (container storage or transfer areas at least weekly); 66265.193 (above ground piping, welded pumps and sealless valves, pressurized aboveground piping systems with automatic shut-off devices visually inspected for leaks on a daily basis); 66265.195 (spill control equipment, tank system, data gathered from monitoring equipment and leak-detection equipment, secondary containment structures, uncovered tanks, inspected at least once each operating day, cathodic protection systems confirmed within six months after initial installation and annually thereafter, and all sources of impressed current inspected bimonthly); 66265.1052 (pumps in light liquid service monitored monthly and visually inspected each calendar week); 66265.1053 (compressor barrier fluid system sensor inspected daily); and 66265.1058 (pumps and valves in heavy liquid service repairs made as soon as possible but no later than 24 hours after a leak is detected).

Section 66265.16 (Personnel Training) requires facility personnel to successfully complete classroom instruction or on-the-job training in hazardous waste

management within six months after hiring. Instruction must teach the employee hazardous waste management procedures relevant to the positions in which they are employed and ensure that the personnel are able to respond effectively to emergencies.

Section 66265.17 (General Requirements for Ignitable, Reactive, or Incompatible Wastes) requires the owner or operator to take precautions to prevent ignition or reaction of ignitable or reactive waste. Compliance with this existing requirement is necessary because, even though reactive wastes are prohibited at the SHWCCAF, other wastes (such as solvents or gasoline) may be ignitable or incompatible.

Section 66265.18 (Location Standards) requires that any facility located in a 100-year floodplain or within the maximum high tide be designed to prevent washout of any hazardous waste by a 100-year flood or high tide.

Section 66265.25 (Seismic and Precipitation Design Standards) requires that facility cover systems and drainage control systems be designed to function without failure when subjected to capacity, for both hydrostatic and hydrodynamic loads resulting from a 24-hour maximum precipitation storm.

Specifically excluded from the SHWCCAF requirements are sections 66265.12(b) (Required Notices) and 66265.13 (General Waste Analysis). Section 66265.12(b) would require the owner or operator to inform off-site generators in writing that the SHWCCAF has appropriate interim status for accepting the generator's waste. This is not necessary because the SHWCCAF facility is not operating as an interim status facility. Section 66265.13 would require that the SHWCCAF conduct detailed chemical and physical analyses of a representative sample of the waste received. This requirement would impose an unnecessary economic burden on the owner or operator of the SHWCCAF. The requirement is not needed since the waste limitations and prohibitions given in proposed section 67450.42, as well as the generator waste characterization requirements established in existing section 66262.11, effectively provide equivalent information and protection. Section 66265.19 (Construction Quality Assurance Program) requiring a construction quality assurance program for surface impoundments, waste piles, and landfills, is also not necessary because storage in waste piles or surface impoundments, or land disposal of hazardous waste is expressly prohibited at SHWCCAFs pursuant to proposed section 67450.42(b)(4).

**67450.44(a)(3)(B)** incorporates by reference the existing facility preparedness and prevention standards from article 3, chapter 15, commencing with section 66265.30. Compliance with these existing regulations is necessary to ensure adequate response in the event of an emergency. The following provisions are incorporated by reference:

Section 66265.30 (Applicability) states that the regulations in Article 3 apply to owners and operators of all hazardous waste facilities.

Section 66265.31 (Maintenance and Operation of Facility) requires that the design, construction, and operation of facilities minimize the possibility of fire, explosion, or any unplanned sudden or non-sudden release of hazardous wastes or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

Section 66265.32 (Required Equipment) requires the facility to have an internal communication or alarm system, portable fire extinguishers, spill control equipment, decontamination equipment, and water at the facility.

Section 66265.33 (Testing and Maintenance of Equipment) specifies that all required equipment be tested and maintained to assure proper operation in the event of an emergency.

Section 66265.34 (Access to Communications or Alarm System) specifies that persons handling hazardous waste must have access to a communication device or an alarm system.

Section 66265.35 (Required Aisle Space) requires that aisle space be adequate and remain unobstructed.

Section 66265.37 (Arrangements with Local Authorities) requires the SHWCCAF owner or operator to make arrangements, as appropriate, to familiarize local police, fire departments, emergency response teams, and the local Office of Emergency Services with the layout and operation of the facility.

Note: Section 66265.36 is not listed here because article 3 of chapter 15 does not currently include a section 66265.36.

**67450.44(a)(3)(C)** incorporates by reference the existing facility contingency plan and emergency procedures standards from article 4, chapter 15, commencing with section 66265.50, except section 66265.53(b). Compliance with these regulations ensures that 1) the SHWCCAF owner or operator is adequately prepared to take the appropriate steps to protect human health and the environment in the event of an emergency; 2) any emergency response will be swift and appropriate to prevent personal injury or loss of life; and 3) a workable and up-to-date contingency plan is always available onsite in case of an emergency. The following provisions are incorporated by reference:

Section 66265.50 (Applicability) states that the regulations of Article 4 apply to owners or operators of all hazardous waste facilities.

Section 66265.51 (Purpose and Implementation of Contingency Plan) requires owners or operators to design and follow a plan to minimize hazards to human health or the environment in the event of fire, explosion, or release of hazardous waste or hazardous waste constituents to the environment.

Section 66265.52 (Content of Contingency Plan) requires that the contingency plan describe the actions facility personnel will take in response to any sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.

Section 66265.53(a) (Copies of Contingency Plan) requires that a copy of the contingency plan and all revisions be maintained at the facility.

Section 66265.54 (Amendment of Contingency Plan) requires that the contingency plan be amended when the facility has changes in such things as its design or operation, changes in emergency coordinators or equipment, or the plan failed in an emergency.

Section 66265.55 (Emergency Coordinator) requires that the facility have an emergency coordinator available to respond to an emergency at all times.

Section 66265.56 (Emergency Procedures) establishes what the emergency coordinator must do whenever there is an imminent or actual emergency, such as activating internal alarms or communications systems and taking all reasonable measures to ensure that fires, explosions, and hazardous waste releases do not occur, recur, or spread to other hazardous waste at the facility.

**67450.44(a)(3)(D)** incorporates by reference the existing article 5 facility manifest system requirement found in section 66265.71(c) of article 5, except as specified in section 66262.20(a)(1). The following provision is incorporated by reference:

Section 66265.71(c) (Use of Manifest System) requires that whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility shall comply with the requirements of chapter 12 (Generator standards). This requirement ensures that hazardous waste shipments initiated at the SHWCCAF will be properly packaged and managed as necessary for transport.

**67450.44(a)(3)(E)** incorporates by reference the existing facility standards for use and management of containers found in article 9, chapter 15, commencing with section 66265.170, except that the minimum distance specified in section 66265.176 may be less than 15 meters under specified conditions. The following provisions are incorporated by reference:

Section 66265.170 (Applicability) requires owners and operators of all hazardous waste facilities that transfer or store containers to comply with the requirements of Article 9.

Section 66265.171 (Condition of Containers) requires the owner or operator to store waste in containers that are in good condition and transfer hazardous waste that is contained in any leaking container or in a container not in good condition to a

container in good condition, or otherwise manage the waste appropriately. Compliance with this existing regulation is necessary to ensure that waste will be contained in containers that will not leak to the environment.

Section 66265.172 (Compatibility of Waste with Containers) requires that waste be transferred or stored in containers that are compatible with the waste and will not react with the waste. Compliance with this existing regulation is necessary to ensure that the integrity of the container will not be impaired.

Section 66265.173 (Management of Containers) requires that a container holding hazardous waste always be closed, except when adding or removing waste. This section also requires the proper handling of a container when opening, transferring or storing waste to prevent rupture of the container or leakage of the wastes. In addition, this section requires the owner or operator to comply with U.S. Department of Transportation regulations for any containers used for transporting hazardous waste. Compliance with this existing regulation is necessary to ensure the safe handling, storage, and transport of containers holding hazardous waste.

Section 66265.174 (Inspections) requires that containers and the areas used for container storage or transfer be inspected weekly for leaks or deterioration of containers and any containment system. Compliance with this existing regulation is necessary to ensure that leaking, deteriorated, or corroded containers will be noticed and replaced before there is a harmful release or incident.

Section 66265.176 (Special Requirements for Ignitable or Reactive Waste) requires that any containers holding ignitable or reactive waste be located at least 15 meters (50 feet) from the facility's property line. Compliance with this existing regulation is necessary to provide for a buffer zone between the facility and adjacent property to minimize the possibility of migration of contaminants to adjacent property should a spill or release occur. In addition, section 67450.44(a)(3)(F) allows the minimum distance to be less than 15 meters (50 feet) if the shorter distance minimizes the possibility of contaminant migration, meets the fire code requirements, and is approved in writing by all the appropriate local agencies. This alternative distance requirement is necessary to provide flexibility to owners or operators of SHWCCAFs located in areas where available space is limited and buffer zones need to be smaller than in other areas (i.e., urban settings vs. rural settings).

Section 66265.177 (Special Requirements for Incompatible Wastes) requires that incompatible wastes not be placed in the same container or in unwashed containers that previously held incompatible material, and that containers of incompatible wastes be stored in separate areas, or separated from each other by dikes, berms, or other devices. Compliance with this existing regulation is necessary to help prevent explosion, fire, or harmful chemical reactions from the commingling of incompatible hazardous wastes, thereby protecting human health,

safety, and the environment.

Section 66265.178 (Air Emission Standards) requires that management of all hazardous waste placed in a container is done in accordance with applicable requirements of articles 27 (Air Emission Standards for Process Vents), 28 (Air Emission Standards for Equipment Leaks), and 28.5 (Air Emission Standards for Tanks, Surface Impoundments, and Containers) of chapter 15. Compliance with this existing regulation (and articles 27, 28, and 28.5 of chapter 15, as applicable) is necessary to help prevent possible emissions of hazardous vapors to the environment.

**67450.44(a)(3)(F)** incorporates by reference the existing facility standards for tank systems found in article 10, chapter 15, commencing with section 66265.190 [except section 66265.197(c)(2)]. Compliance with these existing requirements is necessary to ensure that tanks containing hazardous waste are maintained and operated in a manner which adequately protects human health, safety, and the environment. The following provisions are incorporated by reference:

Section 66265.190 (Applicability) requires facility owners or operators to comply with Article 10 if their facility has tank systems.

Section 66265.191 (Assessment of Existing Tank System's Integrity) requires secondary containment for any existing tank systems.

Section 66265.192 (Design and Installation of New Tank Systems or Components) requires specific design standards for new tank systems.

Section 66265.193 (Containment and Detection of Releases) requires that the secondary containment system meet specific requirements to prevent the migration of hazardous waste or hazardous waste constituents to the environment.

Section 66265.194 (General Operating Requirements) requires the use of spill and overfill prevention controls for tank systems.

Section 66265.195 (Inspections) requires daily inspections of the tank systems and overfill/spill control equipment, and documentation of the inspections in the operating record.

Section 66265.196 (Response to Leaks or Spills and Disposition of Leaking or Unfit-or-Use Tank Systems) specifies response procedures to be followed in the event of a tank leak or spill.

Section 66265.197 (Closure and Post-closure Care) requires the owner or operator of a tank system to remove or decontaminate all waste residues, contaminated containment system components, contaminated soils, and structures and



equipment contaminated with waste, and manage them as hazardous waste.

Section 66265.198 (Special Requirements for Ignitable or Reactive Wastes) imposes special requirements for reactive or ignitable wastes. Compliance with this existing requirement is necessary because, even though reactive wastes are prohibited at the SHWCCAF, other wastes (such as solvents or gasoline) may be ignitable.

Section 66265.199 (Special Requirements for Incompatible Wastes) imposes special requirements for incompatible wastes.

Section 66265.200 (Waste Analysis and Trial Tests) requires waste analysis and trial tests in order to store in a tank a hazardous waste that is substantially different from waste previously stored in that tank.

**67450.44(a)(4)** requires that the owner or operator of a SHWCCAF prepare, maintain at the facility, and operate in compliance with an operating record comprised of the items specified in subsections 67450.44(a)(4)(A) through (C), 67450.44(a)(6)(A)3, 67450.44(a)(7)(B)3, and 67450.45(a). This requirement is necessary to 1) clearly establish that a SHWCCAF operating record must be prepared, kept up to date and available (maintained) at the facility, and complied with; and 2) identify what items must be included in the operating record.

**67450.44(a)(4)(A)** requires development, as part of the SHWCCAF operating record, of procedures to ensure that the SHWCCAF does not exceed the waste volumes and accumulation time limits established in subsection (a)(8) and (a)(9). This requirement is needed so the facility is adequately prepared to take appropriate steps in the event that the facility collects an amount of hazardous waste that may actually or potentially exceed the maximum storage or accumulation time limits. [This subsection is consistent with the existing PBR PHHWCF requirement established in section 67450.25(a)(3)(A).]

**67450.44(a)(4)(A)1** requires that the waste volume and accumulation time limit procedures include a system for identifying and marking wastes with the waste volume and date received or generated at the SHWCCAF. The system must address tracking the location of wastes according to the volume and date received and establishment of procedures for removal of the oldest wastes as necessary to maintain compliance with the maximum waste volumes and waste accumulation time limits. This requirement is needed to allow the SHWCCAF to track waste storage and document compliance with waste volume and accumulation time limits established for operation of the SHWCCAF proposed sections 67450.44(a)(8) and (9).

**67450.44(a)(4)(A)2** requires that the waste volume and accumulation time limit procedures address assessment of when the volume of wastes being brought to the SHWCCAF may cause the SHWCCAF to approach or exceed the maximum waste volume limits. This requirement is necessary to ensure that the SHWCCAF remains in compliance with the

maximum waste volume requirements established for operation of the SHWCCAF under PBR in proposed section 67450.44(a)(8).

**67450.44(a)(4)(A)3** requires that the waste volume and accumulation time limit procedures address the arrangements to be made for the immediate transport of wastes as necessary to ensure that the facility does not exceed the waste volume and waste accumulation time limits. This requirement is necessary to ensure that the SHWCCAF remains in compliance with the maximum waste volume and waste accumulation time limit requirements established for operation of the SHWCCAF in proposed sections 67450.44(a)(8) and (9).

**67450.44(a)(4)(B)** requires development, as part of the SHWCCAF operating record, of procedures for ensuring that the facility will be managed in an environmentally safe manner in the event of inclement weather. This requirement is needed so the facility is adequately prepared to take appropriate steps to operate the facility safely during severe weather, such as rain, hail, or wind storms. [This subsection is consistent with the existing PBR PHHWCF and THHWCF requirements established in sections 67450.25(a)(3)(B) and 67450.4(b)(8).]

**67450.44(a)(4)(C)** requires that, where necessary, a copy of the written protocol developed pursuant to section 67450.44(a)(7)(B)3 for consolidation of solvents, oil-based paints, or gasoline be included as part of the SHWCCAF operating record. This requirement is necessary to ensure compliance with the requirements for consolidation of wastes at the SHWCCAF.

**67450.44(a)(4)(D)** requires development of procedures for segregating and immediately removing wastes prohibited from management at the SHWCCAF within ten days of receipt of the wastes at the SHWCCAF. This requirement is necessary to ensure that the SHWCCAF remains in compliance with the waste management restrictions established for SHWCCAF PBR authorization. The ten day time limit for removing unauthorized wastes is necessary to ensure that the SHWCCAF doesn't violate the temporary storage provisions allowed under RCRA [Title 40, Code of Federal Regulations, section 264.1(g)(9)] and trigger RCRA facility permit requirements.

**67450.44(a)(5)** requires that the SHWCCAF owner or operator maintain compliance with the transportation requirements established in proposed section 67450.46 of article 5, chapter 45. This requirement is necessary to clearly establish that the SHWCCAF must also operate in compliance with the waste transportation requirements of article 5, chapter 45 in order to be authorized under permit by rule.

**67450.44(a)(6)** requires compliance with existing HSC section 25200.14, except as specified in the subsections of section 67450.44(a)(6). HSC 25200.14 mandates that PBR facilities undertake a Phase I environmental assessment of the facility to determine whether a release of hazardous waste or hazardous waste constituents has occurred, or to determine the extent of a release from a hazardous waste management unit. This provision is necessary because compliance with HSC section 25200.14 is required for all

PBR facilities, except THHWCFs. [This subsection is consistent with the existing PBR PHHWCF requirements established in section 67450.25(a)(5).]

**67450.44(a)(6)(A)** requires that the owner or operator of a SHWCCAF complete and file a “Phase I environmental assessment” with DTSC (or CUPA authorized to implement HSC 25200.14) within one year from the date the facility becomes authorized to operate. A “Phase I environmental assessment” means a preliminary site assessment based on reasonably available knowledge of the facility, including, but not limited to, historical use of the property, prior releases, visual and other surveys, records, consultant reports, and regulatory agency correspondence. However, sampling or testing is not required as part of the Phase I environmental assessment. [It should be noted that the Phase I environmental assessment required by this subsection in accordance with HSC section 25200.14 is not the same as the Phase I Environmental Site Assessment (Phase I ESA) required by the California Education Code, section 17213.1. However, applicable information from a Phase I ESA could be used to comply with all or part of the Phase I environmental assessment requirements of this subsection.] This subsection is needed to specifically establish that a Phase I environmental assessment is required from the owner or operator of a SHWCCAF within one year of commencing operation of the SHWCCAF under PBR. [This subsection is consistent with the existing PBR PHHWCF requirements established in section 67450.25(a)(5)(A).]

\*Note: Authority to implement HSC section 25200.14 has not been delegated to the CUPAs at this time. Therefore, all Phase I environmental assessments are to be submitted to DTSC. Once CUPAs are delegated the authority to implement the provisions of HSC section 25200.14, Phase I environmental assessments will be handled by the CUPAs. Regulations establishing the criteria and process for authorization and delegation of the Phase I environmental assessment and corrective action portions of the Unified Program to CUPAs are being developed.

**67450.44(a)(6)(A)1** establishes that the Phase I environmental assessment is limited to the area defined by the SHWCCAF and affected by the operations of the SHWCCAF. In accordance with HSC section 25200.10, Phase I environmental assessments and corrective action under HSC 25200.14 for hazardous waste facilities usually address the entire site under the control of the facility owner or operator and all releases. However, these elements are restricted here to only the operational area of the SHWCCAF. This exception is necessary because most SHWCCAFs will be located in school district corporation yards or other industrial, non-schoolyard district property. Requiring a Phase I environmental assessment of the entire industrial property site under control of the school district (not just the SHWCCAF site), as established under HSC section 25200.10, would cause an unnecessary economic burden on the school district, as well as a disincentive to initiating hazardous waste collection under the SHWCCAF option. [A precedent for this exception can be found in the existing PBR PHHWCF requirement in section 67450.25(a)(5)(A)1.]

**67450.44(a)(6)(A)2** establishes that the Phase I environmental assessment may be

certified, as required in HSC section 25200.14(d), by the SHWCCAF owner or operator, or their designee, a professional engineer, a registered geologist, or a registered environmental assessor. This subsection is necessary to clearly establish who may certify the Phase I environmental assessment. [This subsection is consistent with the HSC section 25200.14(d) requirement and the existing PBR PHHWCF requirement found in section 67450.25(a)(5)(A)2.]

**67450.44(a)(6)(A)3** requires the owner or operator of a SHWCCAF to submit the certified Phase I environmental assessment to DTSC or CUPA authorized to implement HSC section 25200.14. This requirement is necessary to establish to whom the certified Phase I environmental assessment should be submitted. Practically, as discussed in the note to subsection 67450.44(a)(6)(A) above, since there are no CUPAs currently authorized to implement HSC section 25200.14, all certified Phase I environmental assessments should be sent to DTSC. However, since regulations addressing CUPA Phase I authorization and delegation are soon to be proposed by DTSC, CUPAs were also included here to accommodate them once they are authorized to implement HSC section 25200.14. In addition, this subsection also requires that a copy of the certified Phase I be included in the SHWCCAF operating record. This requirement is needed to ensure that the Phase I will be readily available for review and compliance verification by CUPA inspectors or other agency personnel. [This subsection is consistent with the existing PBR PHHWCF requirement established in section 67450.25(a)(5)(A)3.]

**67450.44(a)(7)** requires that consolidation of hazardous wastes at the SHWCCAF be performed in compliance with proposed section 67450.42(d) and as specified in subsections (a)(7)(A) through (C). This requirement is necessary to establish the conditions for consolidation of hazardous wastes at the SHWCCAF. These conditions will help ensure that only eligible wastes are consolidated and that the consolidation is conducted in a manner that protects human health, safety, and the environment.

**67450.44(a)(7)(A)** requires that consolidation be performed in a manner that prevents mixing of incompatible wastes. This requirement is necessary to protect SHWCCAF personnel, the general public, and the environment from releases, explosions, or fires resulting from undesirable chemical reactions generated by the mixing of incompatible wastes. [This subsection is consistent with the existing PBR THHWCF requirement established in section 67450.4(e)(1)(A).]

**67450.44(a)(7)(B)** requires that consolidation be performed in compliance with applicable air quality management district (AQMD) or air pollution control district (APCD) requirements, as well as any applicable local fire agency requirements. Compliance with the provisions of subsections (a)(7)(B)1, 2, and 3 (addressing gas and odor emissions, and consolidation of ignitable hazardous wastes) is also required. This is necessary because hazardous wastes will be exposed to the atmosphere during transfer from one container to a consolidation or bulk container. Local air or fire districts may have restrictions pertaining to hazardous material or hazardous waste exposure to air or atmospheric conditions. This requirement ensures that consolidation of hazardous waste

at the SHWCCAF is conducted in compliance with local air or fire restrictions and with the provisions of subsections (a)(7)(B)1, 2, and 3. Note: Local air districts are identified as both AQMDs and APCDs in the regulations because the terms are functionally equivalent but the name may vary according to location in the state.

**67450.44(a)(7)(B)1** requires that every reasonable effort be made to minimize the loss of volatile organic compounds (VOCs) during any consolidation activities. VOCs are gases emitted from a variety of products or wastes (such as paints, solvents, and fuels) at relatively low temperatures. These organic gases are known to contribute to ozone air pollution and human exposure to certain VOCs may cause mild to serious health effects. This requirement is necessary to protect SHWCCAF personnel, the general public, and the environment from unnecessary exposure to VOCs.

**67450.44(a)(7)(B)2** requires that emission of nuisance odors be prevented during any consolidation activities. This requirement is necessary to minimize unpleasant or undesired odors that may impact SHWCCAF personnel or the inhabitants of areas surrounding the SHWCCAF.

**67450.44(a)(7)(B)3** requires that if the local air district or fire department has requirements applicable to the consolidation of solvents, oil-based paints, or gasoline at the SHWCCAF, a written procedure for consolidation of those wastes must be developed and complied with, and approved by the local fire or air district having jurisdiction over the SHWCCAF. This requirement is necessary because weather (especially temperatures) and environmental issues of concern will vary depending on location in the state. This requirement allows local weather conditions and local safety or environmental concerns associated with hazardous waste consolidation to be taken into account as necessary. In many areas of the state, the local CUPA or authorized agency is the local fire district, so procedure approval may be accomplished as part of the SHWCCAF authorization process. [This subsection is consistent with the existing PBR THHWCF and PHHWCF requirements established in sections 67450.4(e)(2)(B) and 67450.25(a)(4)(D).]

**67450.44(a)(7)(C)** requires that all consolidation be conducted within an area with secondary containment in accordance with section 66264.175 when using containers or section 66265.193 when using tanks. This requirement is necessary to ensure that any releases of hazardous waste resulting from consolidation activities are prevented from reaching soil or water. [Compliance with sections 66264.175 and 66265.193 is also required as part of the general SHWCCAF standards established in proposed sections 67450.44(a)(2) and 67450.44(a)(3)(F).]

**67450.44(a)(8)** states that the maximum quantity of hazardous wastes accumulated at any one time at the SHWCCAF, including wastes generated at the SHWCCAF, cannot exceed 1,080 gallons or 8,800 pounds, whichever is greater. The subsection also provides that the owner or operator must immediately make arrangements for a registered transporter to pick up wastes from the facility if the volume of hazardous waste being transported to the SHWCCAF will cause the maximum quantity limit to be exceeded. This requirement is

necessary to ensure that the maximum quantity of waste allowed at the SHWCCAF at any one time is not exceeded. The maximum quantity of hazardous waste was set at 1,080 gallons or 8,800 pounds (whichever is greater) in an effort to keep the amount of waste stored onsite relatively low, thereby keeping the management risk at the SHWCCAF low.

**67450.44(a)(9)** states that non-RCRA hazardous waste, or RCRA hazardous waste not subject to RCRA permitting requirements, may be accumulated and stored at the SHWCCAF for up to one year from the date of collection, as long as the maximum quantity of hazardous waste allowed at the SHWCCAF is not exceeded. This requirement is necessary to clearly establish the maximum length of time eligible hazardous waste can be stored at the SHWCCAF. The one year time limit is needed to give the SHWCCAF and contributing schools flexibility in waste management, both for economic reasons and to allow the SHWCCAF to accommodate contributing school operation and management activities scheduled during school break periods when students are off campus. [The one year time limit is consistent with the maximum accumulation times for generators established in section 66262.34(e) and the HSC section 25201.6 provisions for storage at standardized permit facilities. This subsection is also consistent with the existing PBR PHHWCF maximum accumulation time limit requirement established in section 67450.25(a)(6).]

**Add Section 67450.45, Recordkeeping Requirements:**

This proposed section establishes the SHWCCAF recordkeeping requirements.

**67450.45(a)** requires that the owner or operator of a SHWCCAF maintain at the facility an operating record consisting of both the documents listed in subsections (a)(1) through (10) of this section, and the items specified in section 67450.44(a)(4). This requirement is necessary to ensure that the SHWCCAF owner or operator keeps current and has available onsite the identified documents for CUPA, authorized agency, or other regulating agency use during inspections, or other regulatory action, to establish or confirm compliance with applicable requirements, and for emergency or spill response actions.

**67450.45(a)(1)** requires that a continuous hazardous waste inventory and facility operating log of the hazardous wastes accepted, generated, stored, or consolidated at the facility, along with the hazardous wastes transported from the facility. This requirement is necessary to establish a paper trail of what hazardous wastes come into the facility and what wastes are transported out.

**67450.45(a)(2)** requires that a list of specific personnel designated by the SHWCCAF owner or operator to operate the SHWCCAF, transport contributing school wastes to the SHWCCAF, or accept waste at the SHWCCAF be included in the operating record. This is necessary to identify which personnel are trained and authorized to operate the SHWCCAF, transport waste to the SHWCCAF, or accept waste at the SHWCCAF.

**67450.45(a)(3)** requires that a written inspection schedule, in accordance to the interim

standards general facility inspection requirements established in section 66265.15(b), be included in the operating record. [Compliance with the provisions of section 66265.15 is included in the facility requirements established in proposed section 67450.44(a)(3)(A).] The written inspection schedule is required of all permitted facilities operating under DTSC's existing regulations and maintaining the document onsite is needed to ensure that facility equipment, such as safety and emergency equipment, is routinely inspected to ensure proper function as intended to prevent, detect, or respond to environmental or human health and safety hazards. [This subsection is consistent with the existing PBR and PBR PHHWCF requirements established in sections 67450.3(c)(8)(B) and 67450.25(a)(2)(A)].

**67450.45(a)(4)** requires that personnel training documents, in accordance with the interim standards personnel training requirements established in section 66265.16(d), be included in the operating record. [Compliance with the provisions of section 66265.16 is included in the facility requirements established in proposed section 67450.44(a)(3)(A).] The information required by section 66265.16(d) includes the job title for each hazardous waste related position; the name of the person filling each job; a job description detailing requisite skill, education, and duties of employee; type and amount of training or job experience to be given for each position; and records that document receipt of the required training or job experience. These documents are required by all permitted facilities operating under DTSC's existing regulations and maintaining the documents onsite is necessary to ensure that persons actively involved in hazardous waste management activities have received the proper training to conduct these operations in a safe manner, in compliance with applicable regulations. [This subsection is consistent with the existing PBR and PBR PHHWCF requirements established in sections 67450.3(c)(8)(C) and 67450.25(a)(2)(A).]

**67450.45(a)(5)** requires that a contingency plan, in accordance with the interim standards contingency plan requirement established in section 66265.53(a), be included in the operating record. [Compliance with the provisions of section 66265.53(a) is included in the facility requirements established in proposed section 67450.44(a)(3)(C).] A contingency plan is required of all permitted facilities and maintaining a copy onsite is necessary to ensure that the owner or operator has a plan for responding to any fires, explosions, unplanned sudden or non-sudden releases of hazardous waste. [This subsection is consistent with the existing PBR and PBR PHHWCF requirements established in sections 67450.3(c)(8)(D) and 67450.25(a)(2)(C).]

**67450.45(a)(6)** requires that copies of the most recent SHWCCAF notifications and acknowledgements received be included in the operating record. Maintaining copies of the most recent notifications and acknowledgements onsite is necessary because these documents contain essential facility and operation authority information needed by CUPA or authorized agency personnel and inspectors to ensure that the facility is operating within authorized conditions and in compliance with federal, state, and local regulations. [This subsection is consistent with the existing PBR and PBR PHHWCF requirements established in sections 67450.3(c)(8)(E) and 67450.25(a)(3).]

**67450.45(a)(7)** requires that copies of any local permits necessary for the operation of the SHWCCAF and documentation that the operation of the SHWCCAF is consistent with local land zoning or land use patterns be included in the operating record. The requirement is needed to document that the SHWCCAF has any permits that may be necessary for operation (in addition to the PBR SHWCCAF authorization), and that the operation of the SHWCCAF is consistent with surrounding land uses. This helps to ensure that the SHWCCAF is located and operating consistent with local land uses and requirements. This also identifies what local agencies, other than the CUPA, are regulating the SHWCCAF, which may facilitate local agency coordination of inspections or possible enforcement actions. [This subsection is consistent with the existing PBR and PBR PHHWCF requirements established in sections 67450.3(c)(8)(F) and 67450.25(a)(3)(B).]

**67450.45(a)(8)** requires that a copy of the SHWCCAF closure plan, as required by section 66265.112 and proposed section 67450.48(c), be included in the operating record. [Compliance with the provisions of section 66265.112 is included in the facility requirements established in proposed section 67450.44(a)(3)(E).] This requirement is necessary so inspectors or other regulatory personnel can verify compliance with the closure plan requirements established in the sections cited above.

**67450.45(a)(9)** requires that copies of documents related to any environmental investigations or remedial actions be included in the operating record. This requirement is needed so inspectors or other regulatory personnel will have direct access to information, in addition to the Phase I environmental assessment, concerning environmental investigations, cleanups, or remedial actions taken in response to a release of hazardous waste at the SHWCCAF. [This subsection is consistent with the existing PBR requirement established in section 67450.3(c)(8)(H).]

**67450.45(b)** requires that the SHWCCAF owner or operator make the documents specified in subsection (a) available upon demand at the facility to any representative of DTSC, the CUPA, or an authorized agency. The subsection also requires that the owner or operator deliver a copy of these documents in person or by certified mail upon written request by DTSC, the CUPA, or authorized agency. The subsection further requires that the written request specify which documents are required, as well as where, how, and when the documents must be submitted. The requirement to make the documents available at the facility on demand is needed to ensure that inspectors or authorized representatives of the specified agencies have immediate access to information necessary to monitor facility operations and assess whether the facility is operating in compliance with the regulations. The requirement for copies of the documents is needed to ensure that DTSC, the CUPA, or authorized agency has access to documents and pertinent facility information in the event of an enforcement action or other question concerning SHWCCAF or contributing school compliance with applicable regulations. The requirement that the written request specify what, how, where, and when documents must be submitted is necessary so that both the regulators and the SHWCCAF owners or



operators clearly understand what is required for compliance purposes. [This subsection is consistent with the existing PBR PHHWCF requirement established in section 67450.25(a)(3)(C).]

**67450.45(c)** requires that the owner or operator of the SHWCCAF keep all records required by this section for a minimum of three years. The record retention period is also automatically extended during unresolved enforcement actions or by request of DTSC, CUPA, or authorized agency. This requirement is necessary to ensure that these documents are available for review during mandated facility inspections (which are required at least once every three years) or as needed for regulatory compliance and enforcement actions. [It is also consistent with the existing hazardous waste generator and PBR THHWCF recordkeeping requirements found in sections 66262.40 and 67450.4(h), respectively.]

**Add Section 67450.46, Transportation Requirements:**

This proposed section establishes the transportation requirements for hazardous wastes managed at a SHWCCAF authorized under PBR.

**67450.46(a)** establishes that hazardous wastes may be transported to the SHWCCAF from contributing schools without a hazardous waste manifest or a registered hazardous waste transporter only under the conditions established in subsections 67450.46(a)(1) and (2). Otherwise, hazardous waste must be transported from the contributing schools to the SHWCCAF according to all applicable hazardous waste transport requirements. This requirement is necessary to clearly identify the conditions for transporting contributing school hazardous waste to the SHWCCAF without using a manifest or registered transporter.

**67450.46(a)(1)** establishes that hazardous wastes from contributing schools may be transported to the SHWCCAF without use of a manifest or registered transporter if the wastes are transported in accordance with HSC section 25163(c), such that all of the conditions given in subsections (A) through (F) are met. This subsection and subsections 67450.46(a)(1)(A) through (F) implement the HSC section 25163(c) statutory exemption from the hazardous waste manifest and registered transporter requirements for transport of less than 5 gallons or 50 lbs of hazardous waste. This exemption is applicable to K - 12 schools wastes because the conditions of the exemption in effect apply to generators who qualify as federal CESQGs, therefore the wastes are not subject to RCRA hazardous waste management and transportation requirements. (It should be noted, however, that the conditions for the exemption are somewhat more stringent than the federal CESQG requirements because the waste generation and accumulation limits are for wastes that are considered hazardous wastes in California, which is a broader category than the category of wastes considered hazardous under RCRA.) Since many contributing schools will need to qualify as federal CESQGs in order to meet the waste eligibility provisions found in proposed section 67450.42(a) for wastes going to SHWCCAFs, some of these contributing schools may qualify for this exemption as well. This subsection and

subsections (A) through (F) are needed to 1) ensure that contributing schools and SHWCCAFs are aware of the existing statutory exemption from manifest and registered transporter requirements for transport of less than 5 gallons or 50 lbs of waste; 2) clarify the conditions necessary to operate under the exemption; and 3) provide, to the extent practicable, all the applicable requirements for the operation of SHWCCAFs in one location under article 5 of chapter 45.

**67450.46(a)(1)(A)** requires that the contributing school is the waste generator and that they generate no more than 100 kg of hazardous waste in any month. [This condition is consistent with the existing HSC section 25163(c)(4) requirement, as well as the federal CESQG monthly waste generation limit.]

**67450.46(a)(1)(B)** requires that the contributing school accumulate no more than 1,000 kg of hazardous waste onsite at any one time. [This condition is consistent with the existing HSC section 25163(c)(5) requirement, as well as the federal CESQG waste accumulation limit.]

**67450.46(a)(1)(C)** requires that the total volume of hazardous waste transported does not exceed 5 gallons or 50 lbs. [This condition is consistent with the existing HSC section 25163(c) transported waste volume limit.]

**67450.46(a)(1)(D)** requires that the hazardous wastes are transported in closed containers and packed in a manner that prevents the containers from tipping, spilling, breaking during the transporting. [This condition is consistent with the existing HSC section 25163(c)(1) waste transport requirement.]

**67450.46(a)(1)(E)** requires that different hazardous waste materials are not mixed within a container during the transporting, except wastes lab packed prior to transport in accordance with the requirements of section 66264.316 and the physical properties of the wastes. [This condition is consistent with the existing HSC section 25163(c)(2) waste transport requirement and proposed section 67450.42(c)(1).]

**67450.46(a)(1)(F)** requires that if the hazardous waste is extremely hazardous waste or acutely hazardous waste, that the waste was not generated in the course of any business and is not more not than 2.2 pounds. [This condition is consistent with the existing HSC section 25163(c)(3) acutely hazardous waste requirement, and the federal CESQG acutely hazardous waste limit.]

**67450.46(a)(2)** establishes that wastes transported according to the conditions of subsections (a)(2)(A) through (F) may also be transported without a hazardous waste manifest or registered transporter pursuant to section 67450.46(a). This subsection and subsections (a)(2)(A) through (F) establish the conditions under which hazardous waste shipments greater than 5 gallons or 50 lbs. may be transported from the contributing schools to the SHWCCAF without using a hazardous waste manifest or registered transporter. Use of a hazardous waste manifest and registered transporter for transport of

relatively small loads of hazardous wastes (which in most cases would not be subject to transport as hazardous waste under RCRA) is costly and that cost acts as a deterrent to removal of hazardous waste from schoolsites. Subsections (A) through (F) establish waste tracking and waste management conditions that provide reasonably equivalent human health and safety, and environmental protections as do the manifest and registered transporter requirements, but at less cost. This is necessary to provide schools with an incentive for timely removal and transport of hazardous wastes from the schools to a SHWCCAF.

**67450.46(a)(2)(A)** requires that the waste to be transported is either non-RCRA hazardous waste, or hazardous waste whose management and transportation is not subject to RCRA manifesting and permitting requirements. This requirement is necessary to clearly identify which wastes are eligible for transport under the provisions of subsection (a)(2). [This requirement is consistent with the provisions of proposed section 67450.42 for wastes eligible for management at a SHWCCAF according to article 5 of chapter 45.]

**67450.46(a)(2)(B)** requires that the hazardous waste be transported by trained employees of the contributing school, trained contractors, or trained SHWCCAF employees, in vehicles owned or operated by the contributing school or the SHWCCAF. It also provides that the contributing school will assume liability for spills of hazardous waste being transported by contributing school employees or contractors, and that the owner or operator of the SHWCCAF will assume liability for spills of hazardous waste transported by SHWCCAF employees or contractors. The subsection does not bar agreements to insure, hold harmless, or indemnify parties for liability under this section, and does not bar actions against another party otherwise available to a generator. These requirements are necessary to ensure that only eligible wastes generated by a contributing school are transported to a SHWCCAF under the provisions of subsection (a)(2). Requiring the vehicles to be owned or operated by either the contributing school or the owner or operator of the SHWCCAF will help ensure that unrelated contractor wastes are not transported to the SHWCCAF along with contributing school wastes. Requiring that personnel transporting the wastes are trained is consistent with other proposed article 5 provisions and helps ensure that wastes are properly managed in transport. [This subsection is also consistent with the provisions of existing HSC 25163.3(d) for transport of hazardous waste to a consolidation site from remote site locations.]

**67450.46(a)(2)(C)** requires that hazardous waste is not held at any interim location, other than the SHWCCAF, for more than eight hours, unless that holding is required by other provisions of law. Collection and transport of hazardous wastes from several contributing schools would be allowed as long as wastes are not held during transit at any of the schools for more than eight hours. This requirement is necessary to provide contributing schools and SHWCCAFs with the flexibility needed for efficient and economic waste transportation while still ensuring that the hazardous waste is transported promptly to the SHWCCAF, without interim offsite storage at a location other than the SHWCCAF. [This subsection is also consistent with the provisions of existing HSC 25163.3(e) for transport of hazardous waste to a consolidation site from remote site locations.]

**67450.46(a)(2)(D)** requires that no more than 135 gallons or 1,100 lbs., whichever is greater, of hazardous waste be transported in any one shipment. This requirement is necessary to keep the volume of waste transported low and manageable by contributing school or SHWCCAF personnel, and ensure that transportation of hazardous waste under subsection (a)(2) remains low risk. The waste volume limit provides for collection of the maximum CESQG monthly waste generation limit from 5 schools in one shipment. However, the requirement also provides for flexibility in waste collection. For example, less wastes from more schools could also be transported in one shipment up to the trip maximum; or the total trip maximum volume could be collected from waste generated and accumulated at one school.

**67450.46(a)(2)(E)** requires that a shipping paper containing all of the information listed in subsections (a)(2)(E)1 through 11 accompany the hazardous waste while in transport. This is necessary to provide for documentation for waste tracking and regulatory compliance. The shipping paper items listed in 1 through 11 are needed to adequately identify what wastes are being shipped, how and to whom the waste is being shipped, and who to contact in an emergency.

**67450.46(a)(2)(E)1** requires that a list of the hazardous waste being transported be included on the shipping paper. [This requirement is consistent with the existing HSC section 25163.3(g)(1) shipping paper requirement for transport of hazardous waste to a consolidation site from remote site locations. It also is consistent with the DOT shipping paper and hazardous waste manifest requirements established in 49 CFR, Part 172, Subpart C.]

**67450.46(a)(2)(E)2** requires that the type and number of containers being used to transport each type of hazardous waste be included on the shipping paper. [This requirement is consistent with the existing HSC section 25163.3(g)(2) shipping paper requirement for transport of hazardous waste to a consolidation site from remote site locations. It also is consistent with the DOT shipping paper and hazardous waste manifest requirements established in 49 CFR, Part 172, Subpart C.]

**67450.46(a)(2)(E)3** requires that the quantity, by weight or volume, of each type of hazardous waste being transported be included on the shipping paper. [This requirement is consistent with the existing HSC section 25163.3(g)(3) shipping paper requirement for transport of hazardous waste to a consolidation site from remote site locations. It also is consistent with the DOT shipping paper and hazardous waste manifest requirements established in 49 CFR, Part 172, Subpart C.]

**67450.46(a)(2)(E)4** requires that the physical state of the hazardous waste be included on the shipping paper. [This is consistent with the DOT shipping paper and hazardous waste manifest requirements established in 49 CFR, Part 172, Subpart C.]

**67450.46(a)(2)(E)5** requires that the name, location, and EPA ID Number, if applicable, of the contributing school where the waste was generated be included on the shipping paper.

[This requirement is consistent with the existing HSC section 25163.3(g)(5) shipping paper requirement for transport of hazardous waste to a consolidation site from remote site locations. It also is consistent with the DOT shipping paper and hazardous waste manifest requirements established in 49 CFR, Part 172, Subpart C.]

**67450.46(a)(2)(E)6** requires that the name and signature of the contributing school representative offering the waste for transport be included on the shipping paper. This requirement is necessary for waste tracking purposes and regulatory compliance purposes. [It is consistent with the DOT shipping paper and hazardous waste manifest requirements established in 49 CFR, Part 172, Subpart C.]

**67450.46(a)(2)(E)7** requires that the name and signature of the individual(s) transporting the hazardous waste from the contributing school to the SHWCCAF be included on the shipping paper. [This requirement is consistent with the existing HSC section 25163.3(g)(9) shipping paper requirement for transport of hazardous waste to a consolidation site from remote site locations. It also is consistent with the DOT shipping paper and hazardous waste manifest requirements established in 49 CFR, Part 172, Subpart C.]

**67450.46(a)(2)(E)8** requires that the date that the hazardous waste leaves the contributing schools and the date the waste arrives at the SHWCCAF be included on the shipping papers. This is necessary for waste tracking and regulatory compliance purposes, especially for compliance with the subsection (a)(2)(C) waste holding limitation. [This section is consistent with the DOT shipping paper and hazardous waste manifest requirements established in 49 CFR, Part 172, Subpart C.]

**67450.46(a)(2)(E)9** requires that the name, address, telephone number, and EPA ID Number of the SHWCCAF be included on the shipping papers. [This is consistent with the DOT shipping paper and hazardous waste manifest requirements established in 49 CFR, Part 172, Subpart C.]

**67450.46(a)(2)(E)10** requires that the name, telephone number, and pager number if available, of an emergency contact be included on the shipping papers. This requirement is necessary in case of a hazardous waste spill during transport. [This section is consistent with the existing HSC section 25163.3(g)(8) shipping paper requirement for transport of hazardous waste to a consolidation site from remote site locations. It also is consistent with the DOT shipping paper and hazardous waste manifest requirements established in 49 CFR, Part 172, Subpart C.]

**67450.46(a)(2)(E)11** requires that the name and signature of the personnel designated by the SHWCCAF owner or operator who accepts the waste at the SHWCCAF be included on the shipping paper. This requirement is necessary for waste tracking and to help prevent unauthorized “drop-offs” of waste at a SHWCCAF. [It also is consistent with the DOT shipping paper and hazardous waste manifest requirements established in 49 CFR, Part 172, Subpart C.]

**67450.46(a)(2)(F)** requires that all shipments of hazardous waste conform with all applicable DOT requirements for shipments of hazardous waste. This is needed to clearly identify that compliance with DOT transportation requirements is necessary to transport hazardous waste under the provisions of subsection (a)(2). [This requirement is also consistent with the existing HSC section 25163.3(i) requirements for transport of hazardous waste to a consolidation site from remote site locations.]

**67450.46(b)** requires the owner or operator of the SHWCCAF keep records, including the shipping papers, of wastes transported to and from the SHWCCAF. The records for wastes transported to and from the SHWCCAF are to be kept onsite at the SHWCCAF for the last three years and be available for immediate inspection by agencies with jurisdiction over hazardous wastes. The record retention period is also automatically extended during unresolved enforcement actions or by request of DTSC, the CUPA, or authorized agency. This requirement is necessary for waste tracking and regulatory compliance purposes. [It is also consistent with the existing hazardous waste generator, hazardous waste transporter, and PBR THHWCF recordkeeping requirements found in sections 66262.40, 66263.22, and 67450.4(h), respectively.]

**67450.46(c)** states that hazardous wastes transported from the SHWCCAF are to be managed and transported according to the provisions of subsections 67450.46(c)(1) and (2).

**67450.46(c)(1)** requires that the wastes be managed in accordance with the pre-transport requirements established in sections 66262.30 (packaging), 66262.31 (labeling), 66262.32 (marking), and 66262.33 (placarding). This requirement is necessary to ensure that all hazardous wastes being transported from the SHWCCAF are packaged and labeled in accordance with the applicable federal Department of Transportation regulations. While these requirements are generally applicable to all hazardous waste generators, including contributing schools and the SHWCCAF, they are included here for clarity and to provide, to the extent practicable, all the applicable requirements for the operation of SHWCCAFs in one location under article 5 of chapter 45.

**67450.46(c)(2)** requires that the wastes be transported from the SHWCCAF in accordance with existing sections 66262.20 through 66262.23, using a hazardous waste manifest and registered hazardous waste transporter, as applicable, and sent only to an authorized treatment, storage, recycling, or disposal facility. This requirement is necessary to ensure that all waste transported from the SHWCCAF is transported to an authorized treatment, storage, or disposal facility using a manifest and registered transporter, including those wastes that were initially transported to the SHWCCAF without a manifest or registered transporter.

**Add Section 67450.47, Training Requirements:**

This proposed section establishes the training requirements for personnel handling hazardous wastes to be managed at a SHWCCAF authorized under PBR.

**67450.47(a)** requires that hazardous waste transported to the SHWCCAF from contributing schools and hazardous waste managed at the SHWCCAF must be handled only by personnel trained in hazardous waste management procedures in accordance with section 66265.16 and authorized by the contributing school or the SHWCCAF owner or operator to handle the waste. The training must be in an amount and frequency sufficient to ensure protection of human health, safety, and the environment, and must address, in addition to the emergency response requirements of section 66265.16(a)(3), the subjects given in subsections (a)(1) through (4) as they relate to K - 12 school waste and the positions held by personnel. This requirement is necessary to ensure that both contributing school and SHWCCAF personnel handling hazardous waste to be managed at the SHWCCAF are sufficiently trained to safely handle the waste. While compliance with section 66265.16 is incorporated by reference through application of hazardous waste generator standards and general facility standards, training requirements consistent with section 66265.16 are included here to ensure that contributing schools and SHWCCAF are clearly informed of the requirement. In addition, requiring that the personnel be authorized by the contributing school or the SHWCCAF to handle the waste is necessary to ensure that the contributing schools and the SHWCCAF owner or operator know who is handling the waste.

**67450.47(a)(1)** requires that personnel training address hazardous waste identification as appropriate for the positions and assignments held by personnel. This requirement is necessary to ensure that personnel required to identify hazardous waste for management at the SHWCCAF are able to do so correctly.

**67450.47(a)(2)** requires that personnel training address hazardous waste management, including waste storage and consolidation considerations (especially with respect to chemical compatibility, reactivity, and temperature sensitivity) as appropriate for the positions and assignments held by personnel. This requirement is necessary to ensure that personnel required to manage hazardous waste can do so safely.

**67450.47(a)(3)** requires that personnel training address non-emergency hazardous waste spill or release response procedures as appropriate for the positions and assignments held by personnel. This requirement is necessary to ensure that personnel are able to effectively respond to spills or releases of hazardous waste that may not constitute an emergency but need to be addressed nevertheless.

**67450.47(a)(4)** requires that personnel training address hazardous waste regulatory requirements applicable to the transportation and management of hazardous waste authorized under PBR according to the provisions of article 5 of chapter 45. This requirement is necessary to ensure that personnel know which wastes are eligible for management at a SHWCCAF and under what conditions, and to ensure that personnel manage the hazardous wastes in compliance with the provisions for authorization of the SHWCCAF under PBR.

**67450.47(b)** requires that pre-transport packaging, labeling, marking, or other

transportation related management of contributing school hazardous waste must be performed by contributing school or SHWCCAF personnel trained in hazardous waste transportation and management as required by subsection (a). This requirement is necessary to ensure that only trained personnel package, label, mark, or otherwise manage the contributing school hazardous waste for transport to the SHWCCAF. For example, if the contributing school has science teachers lab packing science lab hazardous waste for transport to the SHWCCAF, then those science teachers must be trained in hazardous waste transportation and management as necessary to perform that task. This helps ensure that the wastes are packaged for transport in a way that protects human health, safety, and the environment.

**67450.47(c)** requires that personnel training documents be maintained at the contributing school in accordance with section 66265.116(d), as required for hazardous waste generators, and at the SHWCCAF in accordance with section 66265.116(d) and the SHWCCAF recordkeeping and reporting requirements established in proposed section 67450.45. This requirement is necessary to ensure that the personnel training documents are maintained onsite at the contributing school and at the SHWCCAF as part of the SHWCCAF operating record. While compliance with section 66265.16(d) is incorporated by reference through application of hazardous waste generator standards and general facility standards, this subsection is also included here to ensure that contributing schools and SHWCCAF are clearly informed of the requirement to maintain personnel training documents.

#### **Add Section 67450.48, SHWCCAF Closure:**

This proposed section establishes the facility closure requirements for SHWCCAFs authorized under PBR. [Post-closure maintenance at the SHWCCAF is not included here because 1) proposed section 67450.48(a)(1) requires that all hazardous wastes be removed from the SHWCCAF; and 2) waste management activities that require post-closure maintenance, such as land disposal, landfills, waste piles, or surface impoundments, are prohibited at the SHWCCAF.]

**67450.48(a)** establishes that the owner or operator of a SHWCCAF must close the facility in a manner that meets the criteria given in subsections (a)(1) through (a)(3).

**67450.48(a)(1)** requires the removal of all hazardous waste accumulated and stored at the SHWCCAF. Removal of all hazardous waste from the site is necessary and appropriate since land disposal of hazardous waste at the SHWCCAF is prohibited in accordance with proposed section 67450.42(b)(4). This requirement is necessary to ensure that human health, safety, and the environment are not threatened by any hazardous wastes left at the SHWCCAF after closure.

**67450.48(a)(2)** requires the SHWCCAF owner or operator to minimize the need for further maintenance at the SHWCCAF. This requirement is necessary to ensure continuing maintenance is not required at the SHWCCAF after closure. This helps to protect human



health, safety, and the environment in the event that maintenance is not routinely provided or available. [This requirement is consistent with the existing facility closure performance standard established in section 66265.111(a). PHHWCFs are also required to comply with subsection 66265.111(a) as established in the provisions of section 67450.25(a)(2)(E).]

**67450.48(a)(3)** requires that the SHWCCAF owner or operator control, minimize, or eliminate, to the extent necessary to protect human health and the environment, potential or actual escape of hazardous waste, hazardous waste constituents, leachate, contaminated rainfall or runoff, or waste decomposition products to the ground or surface waters or to the atmosphere from wastes managed at the SHWCCAF. This requirement is necessary to protect human health, safety, and the environment during closure from potential or actual threats of contamination associated with hazardous wastes managed at the SHWCCAF. In effect, this means that the SHWCCAF owner or operator must prevent discharges of any hazardous waste or any contaminated media when they are removing wastes or cleaning equipment as necessary to close the SHWCCAF. [This requirement is consistent with the existing facility closure performance standard established in section 66265.111(b). PHHWCFs are also required to comply with subsection 66265.111(b) as established by the provisions of section 67450.25(a)(2)(E).]

**67450.48(b)** requires that during closure all contaminated equipment, structures, and soil be properly disposed or decontaminated by removing all hazardous waste and residues, unless specified otherwise in section 66265.197. All hazardous waste generated from the disposal or decontamination must also be managed as hazardous waste generated by the SHWCCAF pursuant to proposed section 67450.44(a)(2). This requirement is necessary to ensure that, during closure of the SHWCCAF, hazardous wastes and hazardous waste residues are not inadvertently or intentionally left at the SHWCCAF in equipment, structures, or in the ground. [This requirement is consistent with the existing facility closure standard established in section 66265.114. PHHWCFs are also required to comply with section 66265.114 as established in the provisions of section 67450.25(a)(2)(E).]

**67450.48(c)** requires the SHWCCAF owner or operator to prepare, within 6 months after authorization under PBR, a written closure plan that identifies the steps necessary to perform partial or final closure of the SHWCCAF at any point during the active life of the facility and to perform final closure at the end of the active life of the SHWCCAF. The closure plan must be amended whenever changes in the SHWCCAF operating record or facility design or operation affect the closure plan. In addition, the closure plan is required to address the items specified in subsections (c)(1) and (2). These requirements are necessary to ensure that the SHWCCAF owner or operator has a current plan in place detailing how to close the facility at any time in accordance with all applicable requirements. [This requirement is consistent with the existing facility closure plan requirement established in section 66265.112. PHHWCFs are also required to comply with section 66265.112 for facility closure as established in section 67450.25(a)(2)(E).]

**67450.48(c)(1)** requires that the closure plan describe how and when the SHWCCAF will

be closed and must, at a minimum, identify how the owner or operator will accomplish the items specified in subsections (A) through (C). This requirement is necessary to establish what must be addressed in the closure plan.

**67450.48(c)(1)(A)** requires that the closure plan identify how the SHWCCAF owner or operator will remove all hazardous waste from the site. This requirement is necessary to ensure that the closure plan addresses removal of all hazardous wastes from the SHWCCAF site as mandated in the SHWCCAF closure standard established in proposed section 67450.48(a)(1).

**67450.48(c)(1)(B)** requires that the closure plan identify how the SHWCCAF owner or operator will classify and properly manage contaminated container systems, tank systems, soils, structures, and equipment. This requirement is necessary to ensure that the closure plan addresses how contaminated equipment will be managed during closure.

**67450.49(c)(1)(C)** requires that the closure plan identify how the SHWCCAF owner or operator will determine when the site meets the closure criteria specified in subsection (a). This requirement is necessary to establish the mechanisms the SHWCCAF owner or operator will use to document compliance with the closure performance standards. It also provides for flexibility in how compliance with the closure criteria can be established. For example, possible mechanisms to demonstrate compliance include, but are not limited to, use of sampling programs, operating records, or facility design elements.

**67450.48(c)(2)** requires that the closure plan be maintained in accordance with the SHWCCAF recordkeeping requirements established in proposed section 67450.45. This requirement is necessary to ensure that the closure plan is maintained onsite at the SHWCCAF as part of the SHWCCAF operating record. [This requirement is consistent with the existing facility closure plan requirement established in section 66265.112(a). PHHWCFs are also required to comply with section 66265.112(a) for facility closure as established in section 67450.25(a)(2)(E).]

**67450.48(d)** requires that the SHWCCAF owner or operator remove all hazardous waste from the SHWCCAF according to the closure plan within 90 days of receipt of the last load of hazardous waste, unless they can demonstrate removal will take longer than 90 days or there is a likelihood that the SHWCCAF will recontinue operation. This requirement is necessary to ensure that the SHWCCAF is closed in a timely manner and does not pose a risk to human health, safety, or the environment after operation has stopped. [This requirement is consistent with the existing PBR closure requirement established in section 67450.3(c)(11)(D).]

**67450.48(e)** requires the SHWCCAF owner or operator to complete closure activities in accordance with the closure plan within 180 days after removal of the last volume of hazardous waste from the facility, unless they can demonstrate that closure will take longer or there is a likelihood that the SHWCCAF recontinue operation. This requirement is necessary to ensure that the SHWCCAF is closed in a timely manner and does not pose a

risk to human health, safety, or the environment after operation has stopped. [This requirement is consistent with the existing PBR closure requirement established in section 67450.3(c)(11)(E).]

**67450.48(f)** requires the SHWCCAF owner or operator to notify the CUPA or authorized agency, and any other agencies having jurisdiction over the closure of the facility, at least fifteen days prior to completion of closure. This is necessary so the CUPA, authorized agencies, or other agencies having jurisdiction over the closure of the SHWCCAF, have adequate advance notice of the closure in order to arrange a closure verification inspection and ensure that closure is completed according to the closure plan and all applicable requirements. [This requirement is consistent with the existing PBR closure requirement established in section 67450.3(c)(11)(F).]

**67450.48(g)** requires that the SHWCCAF owner or operator remain in compliance with all applicable requirements of article 5 until a certification has been submitted to the CUPA or authorized agency stating that closure has been completed according to the closure plan and that the closure plan meets or exceeds the applicable requirements of article 5. The required certification must be submitted to the CUPA or authorized agency within 60 days of final closure of the SHWCCAF.

The subsection also requires that the certification be signed by both the SHWCCAF owner or operator and a professional engineer registered in California, but allows the professional engineer to be employed by a local government associated with the SHWCCAF but not reporting to the SHWCCAF owner or operator. This requirement helps protect human health, safety and the environment by ensuring the SHWCCAF operates in compliance with all requirements until its closure is certified and that the closure certification is submitted in a timely manner. Certification by a registered professional engineer is necessary because these persons have the training and experience to attest to compliance with the technical requirements related to closure. Requiring that the registered professional engineer either be independent or from a different division or agency is necessary to avoid possible conflicts of interest. However, it also allows SHWCCAF operated by public school districts to save money by using a registered professional engineer employed by a government agency associated with the SHWCCAF. [This requirement is consistent with the existing PBR closure requirement established in section 67450.3(c)(11)(G) and the existing facility closure certification requirement established in section 66265.115.]

**Add Section 67450.49, Financial Assurance for SHWCCAF Closure:**

This proposed section requires the owner or operator of a SHWCCAF to 1) estimate the cost for closure of the facility; 2) provide in advance some kind of financial assurance to cover the cost of facility closure in the event the owner or operator defaults or is otherwise unable to pay for closure; and 3) submit financial assurance certifications to the CUPA or authorized agency documenting compliance with the requirements of this section.

**67450.49(a)** establishes that this section applies to all SHWCCAFs deemed to have a permit by rule. This is necessary to clearly define to whom this requirement applies. [This subsection is consistent with and equivalent to the existing PBR PHHWCF financial assurance requirement established in section 67450.30(a).]

**67450.49(b)** requires that the owner or operator of a SHWCCAF must prepare and submit to the CUPA or authorized agency a written estimate of the cost for closing the SHWCCAF. The estimate must be based on the maximum possible cost for closure, but the cost may take into account salvage values for equipment and reduced costs for using the owner or operators own personnel or equipment. This requirement ensures that adequate funds will be available for closure of the facility in the event that the facility is closed under conditions when closure costs would be most expensive. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(b).]

**67450.49(b)(1)** requires that the owner or operator of a SHWCCAF annually adjust the closure cost estimate for inflation within 60 days prior to the anniversary date of the original financial assurance mechanism. The subsection also establishes that the adjustment must be made using an inflation factor and states how that inflation factor is to be determined. This requirement is necessary to ensure that the closure cost estimate takes annual inflation into account in order to be more representative of current day costs. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(b)(1).]

**67450.49(b)(1)(A)** establishes that the first cost estimate inflation adjustment is to be made by multiplying the cost estimate by the inflation factor determined in subsection (b)(1). This is necessary to clearly establish how the first adjustment is to be made, thereby ensuring that the first annual adjustment will be properly determined. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(b)(1)(A).]

**67450.49(b)(1)(B)** establishes that subsequent cost estimate inflation adjustments are to be made by multiplying the latest adjusted closure cost estimate by the latest inflation factor. This is necessary to clearly establish how the subsequent adjustments are to be made, thereby ensuring that subsequent annual inflation adjustments will be determined in a consistent and proper manner. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(b)(1)(B).]

**67450.49(b)(2)** requires the owner or operator of a SHWCCAF to revise the closure cost estimate within 30 days after a change in the closure plan that increases the cost of closure. This is necessary to ensure that the closure cost estimate is up to date and the owner or operator is prepared to cover any additional costs. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(b)(2).]

**67450.49(b)(3)** requires that the owner or operator keep a current closure plan and closure cost estimate on file at the SHWCCAF during the operating life of the facility. This requirement ensures that a current closure plan and closure cost estimate are available onsite at the SHWCCAF for immediate review by the CUPA, authorized agency, or other regulatory personnel as necessary. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(b)(3).]

**67450.49(c)** identifies what methods may be used to establish financial assurance for closure and requires that the mechanism be submitted with the financial assurance certification required by subsection (d) of this section. This subsection is necessary to clearly establish what financial assurance mechanisms may be used to fulfill the closure financial assurance requirement.

**67450.49(c)(1)** states that a closure trust fund, as specified in section 66265.143(a), may be used to demonstrate financial assurance for closure of a SHWCCAF. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(c)(1).]

**67450.49(c)(2)** states that a surety bond guaranteeing payment into a closure trust fund, as specified in section 66265.143(b), may be used to demonstrate financial assurance for closure of a SHWCCAF. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(c)(2).]

**67450.49(c)(3)** states that a closure letter of credit, as specified in section 66265.143(c), may be used to demonstrate financial assurance for closure of a SHWCCAF. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(c)(3).]

**67450.49(c)(4)** states that closure insurance, as specified in section 66265.143(d), may be used to demonstrate financial assurance for a SHWCCAF. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(c)(4).]

**67450.49(c)(5)** states that a financial test and corporate guarantee for closure, as specified in section 66265.143(e), may be used to demonstrate financial assurance for a SHWCCAF. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(c)(5).]

**67450.49(c)(6)** states that an alternative financial mechanism, as specified in section 66265.143(f), may be used to demonstrate financial assurance for a SHWCCAF. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(c)(6).]

**67450.49(c)(7)** states that multiple financial mechanisms for closure costs, as specified in

section 66265.143(g), may be used to demonstrate financial assurance for a SHWCCAF. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(c)(7).]

**67450.49(c)(8)** states that public agencies may use self-insurance to demonstrate financial assurance for closure of a SHWCCAF. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(c)(8).]

**67450.49(c)(8)(A)** requires the submittal of a certificate of self-insurance if the public agency intends to use self-insurance for closure. DTSC Form 1220 (2/96) must be used for the certificate of self-insurance and must contain original signatures. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(c)(8)(A).]

**67450.49(c)(8)(B)** states that the public agency must guarantee that funds will be available to close the SHWCCAF whenever final closure occurs. In addition, the SHWCCAF must guarantee that once final closure of the SHWCCAF begins the public agency will provide funding equal to the amount equal to the full amount of the most recent closure cost estimate to a party specified by the CUPA or authorized agency. This requirement is necessary to not only ensure that funds will be available for closure of the SHWCCAF, but also to ensure that funds at least equal to the full amount of the most recent closure cost estimate are immediately available once final closure begins. In addition, allowing the CUPA to specify to whom the funds should be paid facilitates a flexible and timely payment process by eliminating steps in the transfer of funds. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(c)(8)(B).]

**67450.49(d)** establishes that the owner or operator of a SHWCCAF must submit a financial assurance certification to the CUPA or authorized agency with the notifications required by sections 67450.43(b), (c), or (f), as appropriate. This provision is necessary to ensure compliance with the financial assurance certification notification and reporting requirements.

**67450.49(d)(1)** establishes in subsections (A), (B), and (C) what information must be included in the financial assurance certification. This is necessary to clearly establish what information must be included in the certification. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(d)(1).]

**67450.49(d)(1)(A)** establishes that the financial assurance certification must include a current closure cost estimate. This requirement is necessary to allow the CUPA or authorized agency to verify closure cost financial assurance information. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(d)(1)(A).]

**67450.49(d)(1)(B)** establishes that the financial assurance certification must include information on what mechanism(s) have been established to provide the closure cost financial assurance. This requirement is necessary to allow the CUPA or authorized agency to determine if the established mechanism meets the criteria found in proposed section 67450.49(c). [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(d)(1)(B).]

**67450.49(d)(1)(B)1** requires that the name and location of the financial institution (or other appropriate organization) used to establish the financial assurance mechanism be included in the certification. This requirement is necessary to allow the CUPA or authorized agency to verify closure cost financial assurance information. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(d)(1)(C).]

**67450.49(d)(1)(B)2** requires that the effective date of the closure financial assurance mechanism be included in the certification. This requirement is necessary to allow the CUPA or authorized agency to verify closure cost financial assurance information. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(d)(1)(D).]

**67450.49(d)(1)(C)** requires that the certification be signed according to the requirements of section 66270.11, Signatories to Permit Applications and Reports. This requirement is necessary to ensure that a responsible representative of the SHWCCAF owner or operator will be held accountable for the accuracy of information included in the certification. [This subsection is consistent with the existing PBR PHHWCF financial assurance requirement established in section 67450.30(d)(1)(E).]

**67450.49(d)(2)** allows the CUPA or authorized agency to require the owner or operator of a SHWCCAF to submit the closure certification using the Certification of Financial Assurance Page of the UPCF. This provision is necessary because a financial assurance certification form specific to SHWCCAF is currently not available.

**Add Section 67450.50, Revocation, Suspension and Denial of Authorization or Reauthorization, and Operating Restrictions for SHWCCAFs Operating Under Permit by Rule:**

This proposed section provides for Department, CUPA, or authorized agency termination, suspension, or denial of a PBR authorization for the operation of a SHWCCAF.

**67450.50(a)** provides that, regardless of the procedures for hazardous waste permit decisions established in Chapter 21, DTSC, CUPA, or authorized agency may revoke, suspend, or deny authorization or reauthorization of a SHWCCAF operating or proposing to operate under PBR. It also requires DTSC, CUPA or authorized agency to base a decision to revoke, suspend, or deny authorization or reauthorization on any one of the

following factors: 1) any cause specified in HSC section 25186 [as provided by cited section 66270.43(a)], including violation history; 2) noncompliance with any condition of the permit; failure to fully disclose relevant facts or misrepresentation of any relevant facts during the permit process; or a determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit denial, modification, or revocation [as provided by cited section 66270.43(b)]; or 3) a finding that operation of the SHWCCAF will endanger human health, domestic livestock, wildlife, or the environment. This requirement is necessary to prevent operation of a SHWCCAF which is either not eligible to operate under PBR, or whose noncompliance history shows a pattern that may pose a treat to public health or the environment, or whose operation would endanger human health, domestic livestock, wildlife, or the environment. [This subsection is consistent with the existing PBR termination, suspension, and denial requirements established in section 67450.9(b).]

**67450.50(a)(1)** establishes that a notice of revocation, suspension, or denial of authorization shall be provided to the owner or operator of a SHWCCAF by certified mail with return receipt or by personal service. This requirement is necessary to ensure that the owner or operator receives notice that the operation of the SHWCCAF is in question. [This section is consistent with the existing PBR termination, suspension, and denial requirements established in section 67450.9(b)(1).]

**67450.50(a)(2)** establishes that the owner or operator of a SHWCCAF whose authorization is revoked , suspended, or denied may appeal the decision by submitting a letter to the issuing agency, within 10 days of receipt of the notice, requesting a hearing. This requirement is necessary to establish that the owner or operator may appeal the revocation, suspension, or denial and establish how and when the appeal must be submitted. The right to appeal provides recourse to the owner or operator and specifying the mechanism and timeline for appeal helps protect the rights or interests of the both owner or operator and the issuing agency. [This section is consistent with the existing PBR termination, suspension, and denial requirements established in section 67450.9(b)(2).]

**67450.50(a)(3)** establishes that the proceedings to appeal a Department, CUPA, or authorized agency decision concerning the revocation, suspension, or denial of authorization or reauthorization of a SHWCCAF under PBR must be conducted according to Chapter 5 of the Government Code. (Chapter 5 of the Government Code details the requirements for administrative hearings for state agencies or agencies delegated to act for the state agency.) This requirement is necessary to clearly establish how appeal proceedings are to be handled. Having a clearly established appeal process helps to protect the rights or interests of both the owner or operator making the appeal and the agency that issued the revocation, suspension, or denial. [This section is consistent with the existing PBR termination, suspension, and denial requirements established in section 67450.9(b)(3).]

**67450.50(b)** states that authorization or reauthorization to operate a SHWCCAF under PBR is contingent upon the accuracy of information provided in the notifications required



by sections 67450.43(b), (c), and (f). This section further states that any misrepresentation or failure to fully disclose all relevant facts will render the authorization or reauthorization to operate null and void. This section is necessary because the CUPA or authorizing agency relies upon the information provided in the notifications to establish the basis for granting authorization or reauthorization. This provision has the effect of negating the need to undertake formal revocation, suspension, or denial proceedings in the event that authorization or reauthorization is obtained under false pretenses because misrepresentation or false pretenses would render the authorization or reauthorization to operate null and void. [This section is consistent with the existing PBR termination, suspension, and denial requirements established in section 67450.9(d).]

**67450.50(c)** requires that DTSC, CUPA, or authorized agency send a copy of any letter denying or revoking authorization for a SHWCCAF to each CUPA or authorized agency with a contributing school within its jurisdiction. This requirement is necessary to ensure consistency, cooperation, and coordination in the regulatory oversight provided by the CUPAs (or other Unified Program authorized agencies) for both the contributing schools and the SHWCCAF operating under the provisions of article 5 of chapter 45.

## **Appendix 1. List of Information Relied Upon**

### **Information and Data from DTSC Staff Research:**

- # DTSC Public Workshops: School Hazardous Waste Offsite Consolidation Under Permit-By-Rule, November, 2000 . Summary of comments and discussions from four public workshops held in November, 2000 on the following dates and locations: November 15 in Los Angeles; November 16 in San Diego; November 17 in Oakland; and November 21 in Sacramento.
- # Responses to 12/15/00 e-mail listserv inquiry made by Western Regional P2 Information Clearinghouse for DTSC on the types and quantities of hazardous wastes found in typical K - 12 schools.
- # Responses to 2/20/01 e-mail inquiry to DTSC staff and Public Workshop participants regarding the volumes of hazardous wastes generated by K - 12 schools in California and how the wastes are typically transported.
- # Data generated from hazardous waste generator, transporter, and facility searches of DTSC's Haznet Database; data from DTSC's HHW Unit Permanent HHW Collections (PBR) report, 8/6/99.
- # Data provided by California Department of Education Demographics Unit staff on the number of open public schools per California school district.
- # Information and data gathered from Long Beach Unified School District (LBUSD) and DTSC staff on LBUSD's offsite hazardous waste collection facility operating under a variance to Standardized Permit requirements.
- # Private sector economic impact assessments for proposed SHWCCAF PBR regulations prepared by Cal/EPA Agency-wide Economics Unit.
- # Preliminary Analysis and Findings Required by Health and Safety Code Section 25150.6, August 20, 2001, DTSC Rulemaking R-00-09, Schools Hazardous Waste Collection, Consolidation, and Accumulation Facility (SHWCCAF) Permit By Rule (PBR) Authorization.
- # Draft Notice of Exemption under the California Environmental Quality Act (CEQA), Schools Hazardous Waste Collection, Consolidation, and Accumulation Facility (SHWCCAF) Permit By Rule (PBR) Authorization Regulations.

### **Studies:**

- # "A Case Study of Environmental, Health, and Safety Issues Involving the Burlington, Massachusetts Public School System," prepared by Todd H. Dresser, published on the U.S. EPA, Region 7 website: <http://www.epa.gov/region07/kids/dresseri.htm>.
- # "Pilot Project: Chemical Waste Minimization in the Educational Laboratory", Final Report 1999/2000, conducted by Argonne National Laboratory-East and the Illinois Waste Management and Research Center.

### **DTSC Rulemaking Packages and Documents:**

- # Permit By Rule Regulations For Fixed and Transportable Treatment Units, R89-13, California Environmental Protection Agency, Department of Toxic Substances Control, December 1991.
- # Final Statement of Reasons for THHWCFs, R-90-36, February 3, 1993.
- # Permit By Rule Regulations For Temporary Household Hazardous Waste Collection Facilities, Initial Statement of Reasons, R-90-36, 2-28-92.
- # Permanent Household Hazardous Waste Collection Facilities, R-95-03, Initial Statement of Reasons.
- # Final Statement of Reasons, Permit by Rule Regulations for Permanent Household Hazardous Waste Collection Facilities, R-95-03,
- # DTSC Rulemaking Package R-97-08, Universal Waste Rule: Initial Statement of Reasons; California Environmental Quality Act Initial Study for California Universal Waste Rule; and Preliminary Analysis and Findings Required by Health and Safety Code Section 25150.6, September 28, 2000.

### **Internet Website Resources:**

- # Agency for Toxic Substances and Disease Registry - ToxFAQs, U.S. Department of Health and Human Services. <http://www.atsdr.cdc.gov/toxfaq.html>.  
-Used for information about contaminants found at hazardous waste sites and fact sheets on specific constituents (including methylene chloride, trichloroethylene, mercury, and formaldehyde, etc.).
- # California Department of Education (CDE), State and School Finance, Research and Statistical Information. <http://www.cde.ca.gov/pg2finstats.html>.  
-Used for database requests on California schools.

- # California Department of Education,  
California School Directory.  
<http://www.cde.ca.gov/schooldir>.  
-Used for statistics on California public schools and school districts.
  
- # Chem Info Net -- A Chemical Health and Safety Resource for Schools (Maine).  
<http://www.cheminfonet.org>.  
-Used for information on chemical use in school science labs, including explosive chemicals and shock-sensitive materials, and chemical management, storage, and accidents.
  
- # Department of Toxic Substances Control, California Environmental Protection Agency. <http://www.dtsc.ca.gov>.  
-Used for information on regulation and management of hazardous waste, transportation of hazardous waste (including the registered hazardous waste transporter database), and fact sheets on used oil, management of spent lead-acid batteries, and managing waste cathode ray tubes.
  
- # Extoxnet FAQs Team, cooperative effort of University of California-Davis (Environmental Toxicology Department), Oregon State University (Department of Environmental and Molecular Toxicology), Michigan State University (Institute for Environmental Toxicology), Cornell University, and the University of Idaho (Department of Food Science and Toxicology).  
<http://www.ace.orst.edu/info/extoxnet/faqs/extoxnet.htm>.  
-Used for information on the unique sensitivity of children - environmental toxicants, exposure, and their effects on children.
  
- # National Center for Education Statistics,  
Private School Locator 1999-2000.  
<http://nces.ed.gov/surveys/pss/locator>.  
-Used for statistics on private schools in California.
  
- # Oregon State University, Environmental Health and Safety, Hazardous Waste Disposal Guide. <http://www.orst.edu/dept/ehs/hwpages/hwgde02.htm>.  
-Used for information on office and shop waste
  
- # "Rehab the Lab", Local Hazardous Waste Management Program in King County, Washington. <http://www.metrokc.gov/hazwaste/rehab/index.htm>.  
-Used for information on chemical use in schools and list of excessive risk chemicals used in schools.
  
- # University of Washington, Environmental Health and Safety, Hazard Communication. <http://www.ehs.washington.edu/updates/Hcoacpro.htm>.  
-Used for information on office and computer products hazards.

- # U.S. Department of Transportation (DOT), Office of Hazardous Materials Safety.  
<http://hazmat.dot.gov/hazhome.htm>.  
-Used for information on federal hazardous waste and materials requirements, including DOT's Hazardous Materials Registration Program.
- # U.S. Environmental Protection Agency, Technology Transfer Network, United Air Toxics Website. <http://www.epa.gov/ttn/uatw/hlthef/polychlo.html>.  
-Used for information on polychlorinated biphenyls (PCBs).
- # U.S. Environmental Protection Agency, Office of Solid Waste, Municipal Solid Waste. <http://www.epa.gov/epaoswer/non-hw/muncpl/hhw-list.htm>.  
-Used for information on HHW and the list of common HHW products.

### **State and Federal Statutes and Regulations:**

- # California Education Code
- # California Health and Safety Code  
Divisions 20 (Miscellaneous Health and Safety Provisions) and 38 (Department of Toxic Substances Control).
- # California Code of Regulations  
Title 22. Social Security  
Division 4.5. Environmental Health Standards for the Management of Hazardous Waste (commencing with section 66001, et seq.)
- # Code of Federal Regulations  
Title 49. Transportation  
Volume 2, Part 172 - Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements (commencing with section 172.1, et seq.)
- # Code of Federal Regulations  
Title 40, Protection of Environment, Chapter I - Environmental Protection Agency, Parts 260 - 299, Solid Wastes (continued).

### **Fact Sheets, Letters, and Other Information:**

- # Fact Sheet - Hazardous Waste Transporter Requirements, California Environmental Protection Agency, Department of Toxic Substances Control, January 1997.
- # An Overview of the Federal Hazardous Materials Transportation Law (Federal

Hazmat Law), U.S. Department of Transportation, Research and Special Programs Administration, Hazardous Materials Safety.

- # Fact Sheet - Standardized Permit Tier for Hazardous Waste Treatment/Storage Facilities, California Environmental Protection Agency, Department of Toxic Substances Control, March 2000.
- # Phase I Environmental Site Assessment Advisory: School Property Evaluations, Revised May 7, 2001, California Department of Toxic Substances Control, California Environmental Protection Agency.
- # June 6, 1996 letter to Interested Parties from the Department of Toxic Substances Control. Subject: Issuance of the Phase I Environmental Assessment Checklist and Notice of January 1, 1997, Due Date for Permit By Rule and Conditionally Authorized Facilities.
- # Appendix D, The History of the Manifest. Hazardous Waste Manifest Code Update Project: Summary of Options Suggested by DTSC Staff, AB 256 Workgroup Meetings, February, 1998.
- # Phase I Environmental Assessment and Corrective Action Manual, prepared by the State Regulatory Programs Division, Department of Toxic Substances Control. Revised March 23, 1998.
- # Regulation of Ethylene Glycol Wastes in California - A Regulatory Interpretation, California Department of Toxic Substances Control, Office of Scientific Affairs, Waste Evaluation Unit, December 1993.
- # July 6, 2000 Internal DTSC Memorandum from Watson Gin, Deputy Director, Hazardous Waste Management Program (HWMP), to Edwin Lowry, Director, and Bob Borzelleri, Chief Deputy Director, introducing and transmitting the HWMP Offsite Storage of Hazardous Wastes Generated by Schools Issue Paper.